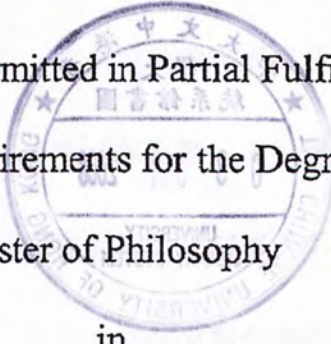


# Examining the Anti-secession Law, and its Effects on Cross-strait Relations

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of the Requirements for the Degree of  
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in  
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## 摘要

中華人民共和國曾採用不同的方法來應付台灣改革民主後帶來的改變。這變革以及台灣民眾的本土意識，提高以及增強了他們對台灣獨立的期望。

由於台灣本土內的某些支持台獨的活動以及中國內政的需要，中國領導人認為有必要提醒以及警告台灣民眾及政府，如果台灣繼續台獨的路綫，中國將在認為有必要時使用武力對抗台獨。然而，過去中國政府武力威脅的效果只是讓台灣人民更傾向於獨立陣營。中國政府認為台灣政黨輪替（民進黨候選人當選總統，其主要政見之一即修憲制憲），政權之和平移至新一代領導人手中是其無法接受之政治變動。對此中國政府必須有所行動，他們必須更改對台政策，用另一種不會激起反效果的方式來警告台灣。

本論文辯論中華人民共和國實施的反分裂國家法以及其後的台灣國民黨－中華人民共和國訪問，表明了大陸對兩岸實施的新政策。



## Abstract

The People's Republic of China (PRC/ 中華人民共和國) has used several different methods to deal with the changes that have occurred on Taiwan as a result of Taiwan's democratization. This democratization along with the formation of a distinct Taiwanese identity have enhanced the desire of many Taiwanese to achieve *de jure* independence.

In light of events that have occurred on Taiwan, as well as for internal political reasons, Chinese leaders have felt the need to warn and remind the Taiwanese people and government that if they intend to pursue *de jure* independence, the PRC is willing to use force to enforce its claim over Taiwan. However, in warning Taiwan in the past, the PRC has only pushed the Taiwanese people more into the camp of the pro-independence Taiwanese. Due to the transfer of power to a new generation of Chinese leaders, and Taiwanese moves that the PRC has deemed unacceptable (election of Democratic Progressive Party (DPP/ 民進黨) leaders, talk of changing the constitution) the PRC needed to act. It was necessary for the PRC to change its strategy and warn Taiwan without inciting a backlash.

This thesis argues that the Anti-Secession Law (反分裂國家法) which was passed by the PRC and the subsequent KMT (Guomindang/ 國民黨)-PRC talks since the passage of the Law signify a new PRC strategy in dealing with cross-strait relations.



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Additionally, I would like to acknowledge the assistance of Professor Emerson M.S. Fong. I partly owe my interest in cross-strait relations to him.

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## Introduction

Secession is an idea is at the very heart of the Anti-Secession Law (ASL/ 反分裂國家法 "*fanfenlieguojiafa*"). The ASL was created and passed by the People's Republic of China (PRC) in March of 2005 to prevent the so-called secession of Taiwan. However, one must consider exactly what secession is. At the heart of understanding this issue there are two important questions: What is Taiwan? And who are the People on Taiwan? These questions must be answered in order to determine whether or not Taiwan *can* "secede" from the People's Republic of China. Taiwan cannot truly "secede" from something it is not a part of. Assuming that Taiwan is a part of something that it can secede from, the answer to these questions could also be helpful in understanding whether or not Taiwan has a right to secede.

Taiwan maintains official diplomatic relations with only a handful of states throughout the world, while China enjoys membership in many international organizations. Organizations which require sovereignty as a prerequisite for entrance typically do not allow Taiwan's participation as a sovereign country. At times the PRC has allowed Taiwan participation in certain international events but it only allows it under the pretext that Taiwan is a part of "China". It should be noted that Beijing has also allowed Hong Kong to participate in certain international events that usually require sovereignty,

therefore allowing Taiwan to participate in some events does not necessarily mean Beijing recognizes Taiwan as being a sovereign state.

To the PRC, Taiwan is a renegade province and the Taiwan issue is an element of the Chinese Civil War that remains unresolved. It claims that Taiwan is an inalienable part of Chinese territory and therefore affairs between the PRC and Taiwan are internal “Chinese” matters. To the Taiwanese, Taiwan can be defined in a number of ways. The name of the political entity that exercises *de facto* sovereignty over Taiwan today is the Republic of China (ROC).

Constitutionally, the ROC still claims to be the legitimate government of China proper as well as of Taiwan. In this sense, one can conclude that at least legally, the governments in both Taipei and Beijing agree that Taiwan is indeed a part of a larger entity that encompasses Mainland China and Taiwan. For decades the governments on both sides of the Taiwan Strait retained the goal of regaining sovereignty over the other side.

However, in recent decades the issue of whether or not Taiwan is a part of a “greater China” has become a point of contention. Related to this issue is the concept of Taiwanese identity. Along with the formation of a Taiwanese identity, a distinct identity that has gradually formed since the late 19<sup>th</sup> century, has come an increased desire for Taiwan Independence. Many Taiwanese now feel that Taiwan is not a part of greater China but in fact an independent state. Taiwan’s



vice-president, Annette Lu has claimed that Taiwan already possesses *de jure* independence and is not a part of China.<sup>1</sup>

The question of whether or not Taiwan is an inalienable part of Chinese territory is relevant to the issue of whether or not Taiwan can in fact be a secessionist state. The People's Republic of China has never held any *de facto* sovereignty over Taiwan. The people of Taiwan carry Republic of China passports, they have their own military, and they elect their own government. This government has never been answerable to Beijing in terms of its ability to run Taiwan. The fact that Taiwan has never been under PRC authority at all could make the claim that Taiwan is an inalienable part of Chinese territory untenable. It would additionally make illegitimate any Chinese claims that if it should choose to attack Taiwan it would be justified because China would be protecting its territorial integrity. Regardless of whether one takes the view that Taiwan is a territory of the PRC or has the right to *de jure* independence, the fact that the PRC claims Taiwan and states that it is willing to back that claim up with force if necessary makes the PRC's claim over Taiwan a political reality that must be contended with. The PRC's military budget grows year after year<sup>2</sup>. The PRC is also the world's most populous country and one of five permanent members of the United Nations Security Council. Thus, when China claims a territory that is

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<sup>1</sup>From a 2000 interview with Time Asia with Annette Lu.  
<http://www.time.com/time/asia/features/interviews/int.annlu.html>

<sup>2</sup>"China's Defense Budget" from GlobalSecurity.org  
<http://www.globalsecurity.org/military/world/china/budget.htm>



as geographically close as Taiwan, it is difficult to disregard China's claim simply by using legal arguments. However, it is important to note that much of China's claim over Taiwan rests on historical and cultural concerns.

Another idea that relates to China's claim over Taiwan has to do with the people on Taiwan. There have been scholars who have defended the PRC's claim to Taiwan on the grounds that not only does the Taiwan conflict relate back to the Chinese Civil War, but also that the people on Taiwan are Chinese, and that this supports China's claim. However, the people on Taiwan have had a different historical experience from the people on the Mainland.

It is important to recognize that there are subtle differences in the Chinese language that simply do not translate into English. These differences allow for people to more easily differentiate between being ethnically Chinese and having Chinese nationality. While many people on Taiwan may identify as being "*hua ren*" (華人) they may not identify as being "*zhong guo ren*" (中國人). "*Hua ren*" can be defined as a person who is ethnically Chinese but was born or holds citizenship outside of China. "*zhong guo ren*" literally means "China person" and refers to someone from China. In this way, Taiwanese and overseas Chinese can identify themselves as being "Chinese" but not Chinese from China.

Singaporeans (Chinese) make use of the word "*hua*" (華) to describe the language that they speak, which is essentially a form of Mandarin. These subtleties of language reflect the fact that many Taiwanese may have multiple identities. They may consider themselves to be both Chinese and Taiwanese.

It cannot be doubted that the vast majority of people in Taiwan have a cultural and ancestral link to the Mainland. It also cannot be doubted that Taiwan and the Mainland have a connection that dates back to centuries ago. However, exactly what Taiwan's political status really should be, is a question that still remains difficult to answer and will be answered differently depending on who is asked.

Chapter one of this thesis will consist of a history of Taiwan. It will also review important historical factors that have led to the creation of a distinct Taiwanese identity. Chapter two will be a literature review. In that chapter I will review research done on the topic of secession, the ASL, and Taiwanese politics and identity. Chapters three and four will concern the US which is very much involved in Taiwan's history and the current situation there. Chapter three will cover the current state of Sino-US relations and chapter four will consist of a history of the US security commitment to Taiwan.

Chapter five will consist of a review of the ASL. In that chapter I will break down the ten clauses of the ASL and discuss their significance. Chapter six will discuss why the ASL was passed by the PRC. I will examine the reasons behind the passage of the ASL from a historical perspective. Chapter seven will be an analysis of events that occurred in relation to or as a result of the ASL. Chapter eight will consist of a short conclusion.



## Chapter One: The Formation of a Taiwanese Identity

In a thesis such as this one, which deals with issues involving the triangular relationship between the U.S., the PRC and Taiwan, a background history of the cross-strait situation should be included. The reason for this inclusion is that history is at the heart of the cross-strait conflict. One of the main reasons the PRC desires to reclaim Taiwan has to do with the desire to overcome historical injustices inflicted upon China at the hands of foreign powers. Furthermore, the ASL itself relates the current situation to the Chinese civil war. To the PRC, the current issue is an unresolved historical issue dating back to when the KMT fled to Taiwan after losing the Mainland and the US proceeded to place Taiwan under its protection. Additionally, in order to examine legal issues pertaining to claims over Taiwan it is important to examine the historical events that led up to the current situation, as well as the political motives of the countries involved. The other relevant factor is the history of a Taiwan identity. The formation of a Taiwanese identity has been a key factor throughout the process of Taiwan's democratization.

### Pre-Dutch Occupation

Taiwan was originally inhabited by people who were not of the Han (漢族, the ethnic group which currently accounts for the majority of people in the PRC)



ethnic group. These inhabitants of Taiwan were people of Malayo-Polynesian tribes<sup>3</sup>. The native Taiwanese lived in a tribal society where different tribes competed for dominance and hunting grounds. On the Western side of Taiwan, there were a few settlers from the Mainland. These people mostly consisted of merchants, people evading taxes on the Mainland as well as those escaping poverty.

### The Dutch Occupation

Early in the 17th century Taiwan's history began to change. "Taiwan in 1600 was on the outer edge of Chinese consciousness and activity, with little or no permanent Chinese settlement, visited only by fishermen, smugglers, and pirates, and only dimly reflected in the discussions and records of the officials who administered and patrolled the South China Coast...In the course of the seventeenth century, maritime Chinese, Japanese, Spanish, English, and Dutch warriors and traders all sought to settle on the great island, make it a commercial base, and profit from its riches."<sup>4</sup> Many people (Mostly Non-Chinese) referred to Taiwan as "Formosa"(美麗島) after it was given the name by Portuguese during the 16<sup>th</sup> century. The first foreign power to establish a significant presence in

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<sup>3</sup> Murray A. Rubinstein (ed.) *Taiwan: A New History*, Armonk, New York, M. E. Sharpe, 1999.

<sup>4</sup> John E. Wills Jr. "The Seventeenth Century Transformation: Taiwan Under the Dutch and the Cheng Regime.", from Rubinstein, Murray A.(ed.) *Taiwan: A New History*, Armonk, New York: M. E. Sharpe 1999 p.85.

Taiwan was the Dutch. Taiwan was not the their first choice for colonization. The Dutch went to Taiwan after suffering defeat at Macau<sup>5</sup> and subsequently being forced off Penghu (澎湖) by the Chinese. The intentions of the Dutch were to find a suitable trading post as well as a base from which to fight its enemies. In 1624 the Dutch built Fort Zeelandia near Tainan. Additionally during the 1620s Spain tried to build outposts at the north end of Taiwan but ultimately failed. While the Dutch presence on the island was short-lived, it represented the first serious effort to develop Taiwan. "Establishing a government over much of the island, the Dutch organized labor, created mines and plantations, and introduced new crops and tools. Dutch administration and infrastructure facilitated trade as well as the immigration of more Chinese to Taiwan...The island became a profitable operation for the Dutch East India Company. Taiwan exported dried fish and deer meat to China and sugar and deerskins to Japan, while the Dutch administration collected taxes from Taiwan's residents".<sup>6</sup> At times the relationship between the Dutch and the aboriginals was cooperative and at times it was relatively hostile. The Dutch were forced off Taiwan in 1661 when Taiwan was made the base of operations by Coxinga (鄭成功, 1624-1662), a Ming (明朝) loyalist.

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<sup>5</sup> Rev. WM Campbell. *Formosa Under The Dutch*. Taipei: Ch'eng-Wen Publishing Company, 1967.

<sup>6</sup> Denny Roy, *Taiwan, A Political History*. Ithaca and London: Cornell University Press, 2003 p. 15.



The beginning of Chinese rule on Taiwan was connected to events that occurred following the fall of the Ming dynasty. The Ming loyalist Coxinga was forced to find a refuge outside of Mainland China when in 1662 the Qing (清朝) decreed that all the coastal regions from Shandong (山東) to Guangdong (廣東) were to be evacuated. In 1661 Coxinga attacked the Dutch on Taiwan and was successful in forcing them out by 1662. Coxinga was able to bring some elements of Chinese culture with him to Taiwan. "With the exodus of the Dutch in 1662, Koxinga [Coxinga] became sovereign of Formosa, and Ming dynasty rule was locally prolonged under his reign. His policies brought to Formosa certain Chinese laws, customs, institutions of government, and something of the prosperity and enlightenment of China to the inhabitants."<sup>7</sup> Coxinga died in 1662, shortly after establishing his control over Taiwan. Following his death, Coxinga was succeeded by his son Zheng Jing (鄭經). Zheng Jing supported the rebellion on the Mainland against the Qing dynasty that was being led by the Governor-General of Fujian (福建). Zheng Jing was able to hold Taiwan until the year 1683 when the Qing sent a large expedition to Taiwan and successfully annexed it.<sup>8</sup> Taiwan became a prefecture of Fujian province. During the period of Coxinga's familial rule from 1662 to Qing annexation, Taiwan was settled by over 100,000 ethnic Chinese.<sup>9</sup>

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<sup>7</sup> George Williams Carrington, *Foreigners in Formosa 1841-1874*. San Francisco: Chinese Materials Center Inc., 1977 p. 7.

<sup>8</sup> Jacques Gernet. *A History Of Chinese Civilization*. pp. 470-471.

<sup>9</sup> Patricia Buckley Ebrey. *The Cambridge Illustrated History of China*. p. 227.



## Taiwan and the Japanese

For many years China enjoyed stability while under the rule of the Qing dynasty, particularly because the Qing emperors generally had longer reigns than their Ming predecessors. However, in the 19<sup>th</sup> century China began to feel the effects of colonialism. The 19<sup>th</sup> century saw the defeat of China at the hands of the British with the Opium Wars (鴉片戰爭). This century also saw China being forced to open up and sign unequal treaties with foreign powers. Hong Kong was ceded to the British, and foreign concessions existed in a number of Chinese cities including Shanghai. Many foreign citizens enjoyed extraterritoriality in China. This meant that they were not subject to the Chinese legal system when they committed crimes.

China had discovered that the Japanese succeeded in modernizing in areas where China had failed to do so, and the Japanese subsequently became a threat. Japan was capable of defending itself against western powers and began becoming an imperial power itself. Adding to this humiliation for China was its defeat at the hands of the Japanese in the first Sino-Japanese war (中日甲午戰爭) of 1894-1895. After both China and Japan sent forces to deal with a rebellion in Korea, Japan sank a Chinese ship igniting tensions that produced a war between China and Japan. The Chinese Navy did not have much success against its Japanese counterpart and China was forced to negotiate for peace. Under the terms of the Treaty of Shimonoseki, which was effective in 1895, China agreed to

a large indemnity and to the permanent cession of Taiwan and the Penghu Islands to Japan.

After this agreement, China dispatched a message to Taiwan informing the Chinese officials that they must leave. However, some of these officials decided to mount a resistance to Japanese rule. They felt as if China had sold them out to the Japanese, and these Taiwanese decided to declare independence in May of 1895. The Chinese officials sought help from western powers and asked the British to take control of Taiwan. However, at that time the western powers actually preferred a Japanese occupation of Taiwan in hopes that such an occupation would bring both development and stability to Taiwan and its surrounding waters. The resistance to the Japanese was short-lived and in October, 1895 the Japanese captured Tainan, marking the official end of the resistance campaign. It should be noted that there were some anti-Japanese guerilla campaigns which continued until 1902.

When the Japanese first began their rule over Taiwan, they offered all ethnic Chinese the opportunity to leave Taiwan for the Mainland to avoid becoming Japanese citizens. About one quarter of Taiwan's population left. However, many chose to remain on Taiwan, partly because they felt that their livelihood would be better guarded under Japanese occupied Taiwan than on the Mainland being ruled by an ailing Qing dynasty.<sup>10</sup> Japanese rule continued on

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<sup>10</sup> Denny Roy. *Taiwan, A Political History*. Cornell University Press: Ithaca and London 2003 pp. 34-35.



Taiwan until the end of World War II. During World War II the allies had met at Cairo in the year 1943 and decided that upon the conclusion of World War II Taiwan would be returned to China (The government of "China" was not specified). In 1951, Japan signed a peace agreement with the Republic of China on Taiwan and officially renounced any territorial claim over the island. These treaties made it clear that Japan no longer claimed Taiwan, and the issue was left unsettled.

World War II ended in 1945 after the Americans dropped the atomic bomb twice over Japan. The ending of the war meant that Japanese-occupied territory was to be returned. As discussed above, during the war, the Cairo declaration was signed in 1943. The allies, including the US and Britain agreed that Taiwan and some other areas occupied by the Japanese during World War II should be given over to the Republic Of China upon the defeat of Japan. The ending of the war came much more quickly than had been anticipated by those in China. The end of the war did not bring a calm. Instead it created a complicated situation in which both the KMT and CCP would quickly vie for territory and power. On the KMT side Chiang Kai-shek utilized American aid in order to occupy some areas that were formerly held by Japan in order keep rival warlords from seizing them. American transport planes help airlift troops to big cities like Shanghai and Nanjing. The Seventh Fleet also helped move troops. Over the course of several months Chiang was able to neutralize the few potentially competitive warlords.

However, the CCP was able to take advantage of the support of the Soviet Union. With that help, the CCP was able to move its troops into Manchuria and secure control over the area. Chiang Kai-shek used some of the previously surrendered Japanese forces to retake some lands lost to the Communists.<sup>11</sup> This move had both positive and negative consequences for Chiang. The positive consequence was that he was able to gain land. On the other hand Chiang hurt his credibility with the Chinese people. "By this use of former enemies and traitors against his own countrymen, Chiang deprived the Communists of territory but tarnished the reputation of his regime. Even greater damage to its good name was done when the nationalists finally arrived in the territories formerly occupied by the Japanese, for they continued to employ Chinese puppet officials and police, thereby souring the joy of liberation. The bewilderment of the liberated was compounded by the attitudes of the Nationalist officials, who descended like locusts upon the occupied areas displaying sanctimonious arrogance, venality and corruption...By contrast, the Communists maintained moderate fiscal and social policies to consolidate and expand support in the territories still under their control."<sup>12</sup> There was a brief calm before the storm when Chiang, Mao Zedong and Zhou Enlai met in Chongqing in August of 1945 and initially agreed on a plan to unite the military and form a coalition government. These negotiations did not produce any fruitful results and

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<sup>11</sup> E.R. Hooton. *The Greatest Tumult: The Chinese Civil War, 1936-49*. London: Brassey's(UK) 1991 p. 18.

<sup>12</sup> *ibid.*



ultimately Mao and Zhou returned to Yanan with Mao convinced that the only way out of the impasse was through a military solution.

The beginning of the major fighting in 1945 saw the Nationalists regain most of their major cities. However, the Nationalists quickly saw defeat in battles where they had numerical advantage. The Communists were able to gain and maintain control of Manchuria. A few Nationalist expeditions to the north ended in failure. Both the CCP and the KMT had their weaknesses and internal problems.

The course of the next three years saw the KMT defeated at the hands of the Communist Party. This defeat can be explained by a number of factors. It was during the months following the surrender of the Japanese that the public image of the KMT began to change. After the war, many of the cities that had come under Japanese control reverted to KMT authority. The officials who went to the cities were both incompetent and corrupt. "The sense of public disillusionment was greater because the incompetence and corruption came from a government that had stood for eight years as the symbol of the nation's will to survive"<sup>13</sup> There was public criticism concerning some important issues: the slowness in disarming the Japanese, the reluctance to punish collaborators, the corruption of officials sent to take over Japanese and puppet properties and organizations by the KMT government, the inadequacy of the economic

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<sup>13</sup> Pepper, Suzanne. *Civil War In China*. Maryland and Oxford: Rowman and Littlefield Publishers, 1999. p. 9.

measures that were implemented at the time, and finally the condescension displayed by the KMT officials when they viewed the population who had lived under the Japanese rather than retreat inland with the KMT.<sup>14</sup>

There were other matters that led to the CCP victory. The CCP was more successful than the KMT in garnering public support for its cause. The CCP expanded from having 1.2 million members in 1945, to having 4.5 million members by late 1949<sup>15</sup>. The CCP was expanding during that period and was also successful in wooing minority parties such as the Kuomintang Revolutionary League, the Democratic League, and the Chinese People's Salvation Association. Along with this popular support enjoyed by the CCP, it also achieved victory through its military tactics. In July 1947, the Communists launched their first major counter-attack against the KMT forces. The CCP was soon able to threaten areas around the Yangzi river. Although Lin Biao wanted to quickly attack and remove KMT strongholds in Northern China, Mao Zedong decided to hold off. The line of reasoning Mao used was that he did not want the KMT to move all its forces to the south. His fear was that KMT would move southward and be able to fortify and hold the area. His goal was to defeat the KMT forces and demoralize them rather than simply to seize territory. In late 1948, the CCP attacked the city of Suzhou(蘇州). The KMT attempted to defend the city, and during the battle lost hundreds of thousands of troops. In December

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<sup>14</sup> *ibid.*

<sup>15</sup> Elegant, Robert S. *Mao Vs. Chiang: The Battle for China, 1925-1949*, pp. 135-137.



1948 Mao gave the order to attack Beijing. The CCP forces were able to encircle the KMT troops defending Beijing. They were also able to negotiate an end of hostilities with the KMT general who was the commander of the troops in the Beijing area.

By the end of January, 1949, the CCP was in control of Northern China. During the period from September 1948 to January 1949 the KMT lost around 1.5 million troops due to combat losses and desertion. While resistance while still theoretically possible at that point, the effects of demoralization had taken their toll on the KMT. Chiang was forced to resign his position as President and some KMT generals began to negotiate with the CPP. The KMT government fled to Chongqing. After resuming his presidency, Chiang ordered the KMT government to retreat to the island of Taiwan.<sup>16</sup>

Following the end of the Chinese civil war, Chiang Kai Shek was forced to deal with governing only Taiwan. His arrival on Taiwan followed a period of discord between the KMT members who were on Taiwan before 1949, and the local Taiwanese. Those incidents and their effects will be discussed shortly. Additionally, in a later chapter I cover the issue of how and when Chiang was able to secure US protection and an American security commitment to Taiwan. While still on the Mainland, Chiang had realized that the KMT was in need of reform. However, due to the fact that the KMT was involved in the civil war, these reforms were postponed. After his arrival in Taiwan, Chiang again thought

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<sup>16</sup> *ibid*, 139.

about reforms. He had concluded that the loss to the CCP was not due to military superiority but rather to their superior organizational power.<sup>17</sup>

Eliminating factionalism and building a strong party organization were the first steps towards the KMT's goal of defeating the CCP and retaking the mainland. This was the primary focus of strategy; most of the work of the Party's planning commission dealt with policies to be enacted after retaking the Mainland. A secondary, but more immediate, task was governing the island of Taiwan.<sup>18</sup>

While on the Mainland, Chiang Kai Shek was unwilling to change his strategy of dealing with the Japanese, even while the Americans urged him. In order to create a better situation on Taiwan, many reforms were implemented. These reforms not only included the KMT party itself, but also issues such as land distribution. Rent reduction and land-to-the-tiller policies had the effect of increasing agricultural production and removing the Taiwanese elites from their source of wealth. By removing these elites, the KMT created a power vacuum. This power vacuum was then filled by local factions that could be co-opted into the KMT. The re-organization campaign by Chiang had six broad goals. These

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<sup>17</sup> Bruce J. Dickson. "The Lessons of Defeat: The Reorganization of the Kuomintang on Taiwan, 1950-1952." *The China Quarterly*, No. 133 March 1993 pp. 56-84.

<sup>18</sup> Ibid. 62



goals were to make the KMT a revolutionary-democratic party, to broaden the party's social base by the inclusion of peasants, workers, youth, intellectuals, and producers, the adoption of democratic centralism as an organizing principle, to emphasize party cells as the basic unit of the party, to have all decisions made by the party's committees and personnel as well as other matters handled through formal procedures, and to "insist that Party members obey the Party, uphold its policies, and have a proper work style".<sup>19</sup>

### The KMT and the Formation of a Taiwanese Identity

KMT rule on Taiwan, before and after Chiang's retreat to Taiwan had a profound impact on the Taiwanese identity. When Chiang retreated to Taiwan it was not just himself that made the retreat. Approximately a million and a half people made the trip to Taiwan around the same time. There were important contrasts between these Mainlanders and the Taiwanese that had been living on Taiwan since before the war with the Japanese. These groups had distinct experiences during the period of the Japanese occupation of Taiwan. At that time, the Mainlanders had only recently concluded a major war against the Japanese, in which many Chinese had suffered greatly. Many people retained the memories of Japanese brutality when they went over to Taiwan. When they went to Taiwan, they found that large elements of Japanese influence still existed

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<sup>19</sup> Ibid. 65.

throughout Taiwanese society. As Denny Roy wrote "The Mainland's determination to regain Taiwan did not necessarily imply acceptance of Taiwan's people as full-fledged compatriots...In the minds of the Mainlanders, therefore, the most salient feature of the Japanese occupation of Taiwan was the systematic effort by the colonial authorities to turn the hearts and minds of Taiwanese against China."<sup>20</sup> Additionally, the Taiwanese were recruited as Japanese agents before the war. When they would enter China on behalf of the Japanese, they enjoyed Japanese extraterritoriality rights. This worked to create resentment against the Taiwanese in communities where they worked. According to Roy, the Mainlanders who moved over to Taiwan had a superiority complex.

This superiority complex was not restricted to the Mainlanders. The Taiwanese also had a superiority complex. While the Mainlanders were dealing with civil strife and fighting the Japanese, the Taiwanese were under Japanese occupation. Although the Taiwanese were under Japanese rule, their society advanced in a number of ways. As Roy continues, "While they resented the discrimination and restrictions on their political power that were part of the Japanese occupation, many Taiwanese also believed Japanese rule had helped Taiwan advance economically, politically, and socially relative to the backward, chaotic, Mainland."<sup>21</sup>

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<sup>20</sup>Denny Roy, *Taiwan, A Political History* p. 56

<sup>21</sup> *ibid.* pp. 56-57



The period of Japanese rule on Taiwan was also a very crucial element in the creation of a Taiwanese identity. According to Maurice Meisner, Japanese rule transformed Taiwanese society and made it more conducive to forming a national identity. The involvement of Taiwanese farmers in a market economy as well as the movement of people from rural environments to cities "tended to undermine traditional localistic loyalties".<sup>22</sup> This move to the urban areas along with Taiwanese engaging in non-traditional occupations led to the rise of a small middle class. There was also a middle class that developed outside the cities. This middle class consisted of teachers, physicians, as well as businessman who lived in towns with populations of about 20,000. "As intermediaries between the economic and intellectual life of cities and the rural areas the members of this middle class played crucial roles in promoting a common Formosan sense of identity. Thus the two factors that been most often associated with the rise of modern nationalisms- the weakening of the colder communal and localistic loyalties and the rise of a middle class- appeared at least in embryo in Formosa during the period of Japanese rule".<sup>23</sup>

The KMT that came over from the Mainland contributed to this formation of a Taiwanese identity through their treatment of the Taiwanese upon their arrival. A small incident between a police officer and a woman who was selling cigarettes resulted in a riot and the destruction of a police station. Murray A.

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<sup>22</sup> Maurice Meisner. "The Development of Formosan Nationalism." *The China Quarterly*, No. 15 Jul.-Sept. 1963.

<sup>23</sup> *ibid.*

Rubinstein wrote, "Once word of the attack on the police station had circulated, the fighting spread throughout the island and the Nationalist authorities were soon forced to defend themselves...As the Nationalist authorities negotiated with the Taiwanese leaders, seemingly in good faith, they brought troops from the Chinese mainland. These troops restored order and made numerous arrests; many of those arrested died in captivity and there was great bloodshed."<sup>24</sup>The death toll has been estimated to be at least 10,000.<sup>25</sup> This incident that occurred on February 28<sup>th</sup> of 1947 provided an opportunity to the KMT. The KMT was able to wipe out many Taiwanese elites that were educated under the Japanese. These were people that would have had the ability to challenge the KMT's control. Rubinstein continues; "Taiwan was now pacified, and its elites and its general populace would remain docile- with certain notable exceptions- until the early 1970s. However, the memory of the violence was kept alive in the minds of those who witnessed it and experienced its fury. The bitterness of that repression remains to this day". Leaders of some movements, like the Democratic Progressive Party(DPP or 民進黨) have used the incident to articulate their positions on Taiwanese nationalism.<sup>26</sup>

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<sup>24</sup> Murray A. Rubinstein. "The Taiwan Miracle." *The Other Taiwan: 1945 to the Present* Ed. Murray A. Rubinstein, 1994. p. 4.

<sup>25</sup> "Report blames Chiang for 2/28 Incident". Feb. 20, 2006

<http://english.www.gov.tw/TaiwanHeadlines/index.jsp?print=1&catid=8&recordid=91578>

<sup>26</sup> *ibid.* 5.



The arrival of the KMT along with many Mainlanders created a number of issues for the Taiwanese. The large amounts of currency brought over led to inflation. Furthermore, the fact that 600,000 of the people who fled the Mainland to Taiwan were soldiers also served to strain the Taiwanese economy. The way the KMT treated the Taiwanese led to a deep and long lasting animosity among the Taiwanese, directed at the KMT.<sup>27</sup> Although there were members of the KMT that wanted to win Taiwanese support and raise their living standards, the threats from Taiwan had the effect of prolonging KMT authoritarianism. The KMT faced two challenges in 1949 that limited its use of power. The first challenge, was the constant threat of attack and subversion posed by the Mainland. The other challenge was posed by a "nationalist Taiwanese overseas movement dedicated to the overthrow of the KMT and the ROC government, which evolved from the brutal suppression of an uprising in February-March 1947 in Taiwan." The existence of these two threats was a danger to the legitimacy of the government and they were dealt with by means of control and suppression.<sup>28</sup>

During the period of Martial law, which extended from the time the KMT fled to Taiwan up until 1987, the government tried to have the incident forgotten.

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<sup>27</sup> Ralph N. Clough. "The Enduring Influence of the Republic of China on Taiwan Today" *The China Quarterly*, No. 148, "Special Issue: Contemporary Taiwan." Dec. 1996 p. 1058.

<sup>28</sup> Linda Chao and Raymond Myer. "The First Chinese Democracy: Political Development of the Republic of China on Taiwan, 1986-1984." *Asian Survey*, Vol. 34, No. 3 March 1994 p. 215.

However, as Taiwan began to change into a democracy and eventually ended martial law, the incident began being used as a rallying point. The government launched an investigation into the incident and made a report on it in 1992.<sup>29</sup>

There were other incidents and factors that helped to steer the course of Taiwanese political change. Taiwan's process of democratization began in the late 1970s. The Kaohsiung Incident(高雄事件) was instrumental in the process that led to the creation of the DPP. This incident occurred in December 1979 and was the result of protests which followed a government raid on the Formosa Magazine. The incident exposed the tactics and brutality used by the KMT and the trials of the protesters that followed was a forum where the KMT's practices could be questioned. A number of the people who were involved in the Kaohsiung incident later became members of the DPP and won elected office.

### The rise of the opposition party in Taiwan

During Taiwan's period of Martial Law, opposition parties were generally illegal. The Legislature was composed of members who held their positions before 1947. The appointment of new members was to be held off until the KMT could retake the Mainland. In the 1970s and the 1980s the *Dangwai* (黨外) movement became active. The *Dangwai*, which in Chinese means "outside of the

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<sup>29</sup> John F. Copper. *Taiwan: Nation-State or Province?* Fourth edition. Cambridge Massachusetts: Westview Press, 2003.



party" (party here refers to the KMT), was mostly made up of Taiwanese rather than Mainlanders. The *Dangwai* was not a coherent group. Lucian Pye described the *Dangwai* as "highly individualistic, a collection of ambitious souls who find it difficult to collaborate with each other."<sup>30</sup>The KMT's policies helped the *Dangwai* electorally in some respects. In order to reduce corruption among local officials, the KMT had instituted some regulations that limited the freedom of some local officials. As a result, these KMT officials were no longer in a position to punish electorates that voted in *Dangwai* mayors and magistrates.<sup>31</sup>People were in a better position to support *Dangwai* candidates.

The DPP was eventually formed out of this *Dangwai* movement in 1986. In 1991 the existence of the DPP became officially legal. The 2000 election saw the DPP take the Taiwanese presidency for the first time.

## Conclusion

Taiwan has undergone many political and social changes throughout its history. Historically it has been ruled by the Dutch, its own short-lived dynasty, Mainland China during the Qing dynasty, the KMT(one-party rule), and its own democratically elected government. The history of Taiwan is directly linked to the history of China. Much of Taiwan's situation throughout history was guided

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<sup>30</sup> Lucian W. Pye. "Taiwan's Development and Its Implications for Beijing and Washington." *Asian Survey* Vol. 26, No. 6 June, 1986 p. 620.

<sup>31</sup> *ibid.*

and influenced by events that took place on the Mainland. The status quo in the Taiwan strait exists partly due to as yet unresolved issues dating back to the Chinese Civil War. Additionally, today the majority of Taiwan's inhabitants are of Chinese ancestry. However, despite the similarities between the people, the Taiwanese and the Mainlanders have had very different historical experiences. The Japanese occupation of Taiwan while at the same time attacking the Mainland and killing many Chinese caused there to be different views and experiences on each side of the Taiwan Strait. Additionally, events that took place in Taiwan as a result of KMT rule left deep impressions on the Taiwanese. To many Taiwanese, the experience during the early years of KMT rule was worse than the experience of living under the Japanese. These events have had added significance since Taiwan became democratic. Taiwan's political parties are typically supported along different ethnic lines. In the 2004 election, Chen Shuibian (陳水扁) used "ethnically divisive rhetoric" that gained him support of the Taiwanese "Hoklo" (福佬 / 鶴佬) majority, but alienated people who are considered to be "Mainlanders". Additionally, the increase of awareness of the Taiwanese identity has been helpful to the DPP. According to the Taipei times, "As a result of increasing Taiwanese identity over the years, the percentage of votes for the DPP has risen from 20 percent in 1996 to 39 percent in 2000 and 50.1 percent this year".<sup>32</sup> In understanding the situation in the Taiwan Strait, it is very

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<sup>32</sup> Trung Latieule. *Taipei Times* June 1, 2004 p. 8.

<http://www.taipeitimes.com/News/editorials/archives/2004/06/01/20031574>



important to understand the effects that Taiwanese identity has had and will have on Taiwanese politics and cross-strait relations.

In this literature review and throughout this thesis it should be noted that the sources used have been English language sources.

## Introduction

By using the word "secession" or in Chinese "fenli" (分利) in the preamble of the ASI, the PRC has expressed its view that Taiwan is a part of the PRC and that the forces on Taiwan who seek *de jure* independence are in fact seeking secession. In order to examine the situation and motives behind the ASI, and to properly apply the term "secession" in this situation, it is important to examine theories about secession and other secession movements in modern history to note their motivations, methods, and consequences and to examine whether or not these may help teach us about the Taiwan situation. In examining other countries' dealings with secessionists, one may better understand what outcome is to be expected in the Taiwan Strait as well as understand the possible motives behind the PRC's passage of the ASI.

Charles R. Nnam (1972) studied the situation that occurred when Eastern Nigerians attempted secession and created the short-lived state called the Republic of Biafra. He pointed out that the concept of "red" in discussing self-determination is unclear and that the UN mentions the right of self-

## Chapter Two: Literature Review

In this literature review and throughout this thesis it should be noted that the sources used have been English language sources.

### Secession

By using the word “secession” or in Chinese “*fenlie*” (分裂) in the naming of the ASL, the PRC has expressed its view that Taiwan is a part of the PRC and that the forces on Taiwan who seek *de jure* independence are in fact seeking secession. In order to examine the situation and motives behind the ASL, and to properly apply the term “secession” in this situation, it is important to examine theories about secession and other secession movements in modern history to note their motivations, methods, and consequences and to examine whether or not these may help teach us about the Taiwan situation.. In examining other countries’ dealings with secessionists, one may better understand what outcome is to be expected in the Taiwan Strait as well as understand the possible motives behind the PRC’s passage of the ASL.

Charles R. Nixon (1972) studied the situation that occurred when Eastern Nigerians attempted secession and created the short-lived state called the Republic of Biafra. He pointed out that the concept of “self” in discussing self-determination is unclear and that the UN mentions the right of self-



determination, but the "self" being referred to can be viewed as meaning just the people who pursue secession, or it can refer to the people who would be affected by secession. Additionally, he observed that based on historical events, unilateral declarations of independence have not usually led to positive results.<sup>33</sup> Hurst Hannum (1990)<sup>34</sup>, a professor of international law, also discussed the idea of "self" as it pertains to the issue of self-determination and international law. Hannum pointed out that the UN's support of the right of self-determination has mostly been in the context of the ending of colonialism. He wrote that "UN and state practice since 1960 provides evidence that the international community recognizes only a very limited right to 1) external self-determination, defined as the right to freedom from a former colonial power, and 2) internal self-determination, defined as independence of the whole state's population from foreign intervention or influence."<sup>35</sup>

Based on Nixon's observations, unilateral secession on the part of the Taiwanese would unlikely lead to a positive outcome. As the ASL indicates, the consequences of such a unilateral move could be harsh. Hannum's observations have bearing on the legality of Taiwanese secession. They bring up questions such as who this "self" might be who has the right to determine Taiwan's future.

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<sup>33</sup> Charles R. Nixon. "Self Determination: The Nigeria/Biafra Case." *World Politics*, Vol. 24 no. 4, July 1972. pp. 473-474.

<sup>34</sup> Hurst Hannum. *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights*. Philadelphia: Philadelphia University Press, 1990.

<sup>35</sup> Ibid. 47.

It may include the people of the PRC because secession could impact them.

Furthermore, a right to self-determination is not necessarily a right to secession.

John R. Wood (1981), a professor in the department of political science at the University of British Columbia, studied preconditions and possible influences on secession movements. He pointed out several preconditions that may exist for secession to be pursued.<sup>36</sup>

Those preconditions which Wood laid out that may be relevant when examining the Taiwanese desire for independence are geographical, social, political, and psychological. The Geographical precondition exists because Taiwan is physically separated from the Mainland. The other preconditions would apply because Taiwan and the Mainland have cultural differences and different political systems. While none of these preconditions alone necessarily ferments a desire for secession, they can be contributing factors.

Harry Beran (1987)<sup>37</sup>, a senior lecturer at the University of Wollongong, argued in favor of a theory of consent. This type of theory supports the idea of the necessity of a government having its constituents' consent, for it to be legitimate. In Beran's view, a person being born in a certain state does not make

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<sup>36</sup> John R. Wood "Secession: A Comparative Analytical Framework" *Canadian Journal of Political Science/Revue canadienne de science politique*, Vol.14, No. 1 (March, 1981). pp. 107-134.

<sup>37</sup> Harry Beran *The Consent Theory of Political Obligation*. New South Wales: Croom Helm Publishers, 1987.



him a “captive” of the state. He said that “the liberal democratic state must be, as far as possible, a voluntary association”<sup>38</sup>

Philosophy professor Allen Buchanan (1991)<sup>39</sup> reviewed different arguments pertaining to secession which are often used by forces working toward secession typically use to explain their actions. He also mentions the counterarguments and excuses given by governments who resist secessionist movements. The arguments are as follows: the argument of consent (if a person claims that it is necessary for a legitimate government to have the consent of those under its authority, that government must acknowledge the right of secession), the right of self determination, the argument of rectificatory justice (an area was wrongfully incorporated into the larger entity and as a matter of justice must be allowed to secede), the argument of discriminatory redistribution (for example, if a government were to highly tax a certain area, and redistribute those funds elsewhere).

Buchanan (1991)<sup>40</sup> also discussed the issue of whether or not secession is a moral right. He concluded that secession is morally permissible, however it should only occur under certain circumstances. Instead of arguing for the existence of an absolute moral right to secede, Buchanan’s view allows for secession when it can be properly justified. Another scholar that has this view of

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<sup>38</sup> Ibid. 149.

<sup>39</sup> Allen Buchanan. “Toward A Theory of Secession.” *Ethics*, vol. 101, No. 2, January 1991 pp.322-342.

<sup>40</sup> Allen Buchanan. *Secession: The Morality of Political Divorce From Fort Sumter to Lithuania and Quebec*. Boulder, San Francisco and Oxford: Westview Press 1991.

secession is a legal scholar, Lea Brilmayer. In her 1991 paper "Secession and Self-Determination- A Territorial Interpretation." she expressed her view that a convincing argument for secession will be based on a historical claim. If the territory was wrongfully annexed, the argument in favor of secession can be legitimized. In 2000, Brilmayer stated that "The common characteristic of all strong cases for secession is a showing of illegal annexation".<sup>41</sup> Since the PRC does not exercise authority over Taiwan, Buchanan and Brilmayer's views may not be completely applicable. Taiwan is trying to avoid what some might view as annexation, instead of trying to undo a past, wrongful annexation.

Robert A. Young (1994)<sup>42</sup>, a professor of political science, studied the history of peaceful secessions. He discussed the situations of Singapore/Malaysia, Austria/Hungary, and Norway/Sweden. Young pointed out that there are certain patterns that peaceful secessions have tended to follow. According to Young, peaceful secession usually takes place after a long period of disagreement between the parties. The declaration of secession is usually abrupt (except in the Singapore situation, where it was the predecessor state which made the decision to separate). The next step in the process, is that the predecessor state accepts the principle of secession, and that step is followed by negotiations. The secession galvanizes the people and leads to the governments

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<sup>41</sup> Lea Brilmayer. "Secession and Self-Determination: One Decade Later." *Yale Journal of International Law*. Summer 2000.

<sup>42</sup> Robert A. Young "How Do Peaceful Secessions Happen?" *Canadian Journal of Political Science/Revue canadienne de science politique*, Vol. 27, No. 4, December 1994. p. 773.



being strengthened and solidarity on both sides. Young pointed out that these negotiations do not have many participants. The Singapore/Malaysia negotiation only involved the respective Prime-Ministers and their aids. These negotiations do not last very long. "When a unit breaks up peacefully, the two sides disengage quickly, and the negotiations concern a relatively short list of items which are settled in principle"<sup>43</sup>. The settlement that is made initially does not involve many issues. The settlement deals with a few major concerns and leaves other, smaller, issues to be worked on in the future. The next observation Young made was that in cases of peaceful secession, foreign powers tend to play a role. Furthermore, the secession is attained constitutionally. "Peaceful secessions, without exception, are achieved through established legal processes...There is no legal rupture of the type associated with unilateral declarations of independence."<sup>44</sup>While peaceful secession is done constitutionally, there are usually no other constitutional changes made at the time. Policies made in the two countries begin to diverge. The last observation made here by Young is that the secession is irrevocable. Reunification after peaceful secession has not occurred. This point can be applied to Taiwan's situation. Based on this theory, if Taiwan were to peacefully secede from the PRC, any future unification would be unlikely.

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<sup>43</sup> *ibid.* p. 785.

<sup>44</sup> *ibid.* p. 787.

Christopher H. Wellman (1995)<sup>45</sup> argued in favor of the right of self-determination. He made the point that a state is not justified in blocking the secession of a particular part of the country because it believes secession would increase vulnerability to attack or cause economic harm. This claim may only limit the conditions of secession, but should not be used as a basis to completely stop secession. Another scholar who supports the idea of self-determination and the right of secession is Daniel Philpott (1995), a political scientist at the University of Notre Dame.<sup>46</sup> Philpott acknowledged that the right to self-determination does have certain limits. "A second guideline, then, is that a group's right to self-determination is qualified by the injustices it inflicts on the larger state". Philpott continued to write "The general principle, though, is an international version of classic liberal individual freedom: with its enhanced independence- a separate state or federal autonomy- the group may govern exclusively in affairs that are truly its own, but, in matters which affect the larger state, it retains outside obligations"<sup>47</sup>

Stephane Dion (1996), a Canadian political scientist and politician, pointed out that the likelihood of secession occurring in a democracy is dependent on the confidence inspired by the prospect of independence as well as by the fear of

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<sup>45</sup> Christopher H. Wellman. "A Defense of Secession and Political Self-Determination." *Philosophy and Public Affairs*, Vol. 24 No. 2, Spring 1995. pp. 142-171.

<sup>46</sup> Daniel Philpott. "In Defense of Self-Determination." *Ethics*, Vol. 105, No. 2, Jan. 1995 p. 352-385.

<sup>47</sup> Ibid p. 363.



remaining in the union. If the fear and confidence are both high, secession will be likely. If both fear and confidence are low, secession is impossible. If fear of staying unified is low and the confidence inspired by secession is high, secession will be unlikely. If the fear of being in the union is high but confidence in secession is low then secession will also be unlikely.<sup>48</sup>

Buchanan (1997)<sup>49</sup> said that there are two ways to classify normative theories of secession. There is the “primary” right and the “remedial” right. The primary right of secession is meant to allow groups to secede from a state, even if that state has been fair and just to that group. Among the primary right theories are “Ascriptive Group Theories and Associative Group Theories”. The former, allows for the primary right to secede only when there is some common group characteristic, for example, a distinct ethnic group that wishes to secede. The latter, allows any group within the state to have the right of secession as long as the majority wishes to secede. Those that support “remedial” right theories, believe that secession should only be possible as a remedy for a group that has been mistreated in some way. Secession can only occur as a type of compensation for a past injustice.

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<sup>48</sup> Stephane Dion. “Why is secession difficult in Well-Established Democracies? Lessons From Quebec.” *British Journal of Political Science*, Vol. 26, No. 2 April 1996, pp. 272-273.

<sup>49</sup> Allen Buchanan. “Theories Of Secession.” *Philosophy and Public Affairs*, Vol. 26, No. 1 Winter, 1997, pp. 31-61.

Charney and Prescott (2000)<sup>50</sup> (Victor Prescott is a social scientist at the University of Wollongong, and Jonathan Charney was a professor of law at Vanderbilt University) wrote a very informative article for the *American Journal of International Law* that discussed the international legal issues pertaining to Taiwan's situation. They discussed many possible legal arguments that may be used by both sides in their claims. Some of the questions they address are: Is the PRC the legitimate successor state to the China of the Qing dynasty? Who was supposed to take control of Taiwan after World War II? Would a Chinese attack on Taiwan in case of a declaration of independence be legal or illegal within the bounds of international law? The answers to these questions are important in attempting to find a legal solution to the Taiwan situation and could have bearing on the legitimacy of a law such as the ASL.

Taiwan's situation is unique in that with other secession movements, a group typically wishes to break away from the larger polity and create its own sovereign nation. However, for many years while Taiwan was considered a rogue province by the PRC, the Taiwanese government itself upheld a "one-China" policy and was responsible for limiting the activity of independence movements on Taiwan. Additionally, another aspect of the Taiwan situation which contributes to its being unique is that from the time Chiang Kaishek fled to Taiwan up until late 1971 the government in Taipei was deemed the legitimate

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<sup>50</sup> Jonathan I. Charney and J.R.V. Prescott. "Resolving Cross-Strait Relations between China and Taiwan." *The American Journal of International Law*, Vol. 94, No. 3 July, 2000.



government of China in the international community<sup>51</sup>. Furthermore, unlike many secessionist movements, Taiwan has never been under the political control of the polity it is supposed to be seceding from, the People's Republic of China. However, it is important to note where other cases have relevance to the Taiwan situation. For example, the conditions mentioned by Dion can help us understand some of goals that Beijing may seek to achieve with the ASL. The ASL could be an effective means of reducing Taiwan's confidence in its post-independence prospects. Furthermore, the improved cross-strait relations being promoted by the ASL could reduce the fear of unification.

### The Anti-Secession Law

In March 2005, John J. Tkacik Jr., a senior research fellow at the Asian Studies Center of the Heritage Foundation, predicted that the ASL will strain Sino-American ties.<sup>52</sup> Richard C. Bush III (2005), an expert in Northeast Asian policy studies and Sino-U.S. relations, in reference to the ASL, said that it has "single-handedly transformed the security equation in East Asia and the political

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<sup>51</sup> This was when the United Nations seat held by the Republic of China was given over to the People's Republic of China.

<sup>52</sup> John J. Tkacik Jr. "Secession Law Strains Ties." March 10, 2005 <http://www.heritage.org/Press/Commentary/ed031005b.cfm>

atmosphere on Taiwan.” He also went on to say that the best Taiwanese response to the ASL would be “restraint”.<sup>53</sup>

Zhu Zhiqun (2004) said that anti-secession or unification legislation had been anticipated for . Zhu says that the law “will also confirm China’s pledge to the international community that it desires to maintain the status quo across the Taiwan Strait”.<sup>54</sup> Zhu Zhiqun’s outlook on the ASL is relatively positive.

Bonnie Glaser, an expert of Sino-U.S. relations with the Center for Strategic and International Studies, pointed out in 2005 that the ASL along with certain other moves represented a change in Beijing’s strategy. She stated that “a decision was taken by Chinese leaders to postpone the goal of reunification and focus on preventing separation”.<sup>55</sup>

An editorial in March 2005 in the Taipei Times by Amit Chanda, an analyst who frequently writes about Asian political and security issues, mentioned that the Anti-Secession Law could be considered dangerous because it is worded vaguely.

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<sup>53</sup> Richard C. Bush III. “Taiwan Should Exercise Restraint in Reacting to the Challenge of China’s Anti-Secession Law.” March 24, 2005.

<sup>54</sup> Zhiqun Zhu. “Secession Bill Shows China’s Wisdom.” Dec. 21, 2004. <http://www.atimes.com/atimes/China/FL21Ad02.html>

<sup>55</sup> “China’s Anti-Secession Law: Expert Discuss Implications for Cross-Strait Relations, U.S. Interests.” Center For Strategic and International Studies. March 21, 2005. [www.csis.org](http://www.csis.org).



Banning Garrett, who is an American expert on Sino-U.S. relations, and Jonathan Adams (2006)<sup>56</sup> of the Atlantic Council of the United States, pointed out that the ASL was not as harsh as it was expected to be. Since the ASL did not include the “one country, two systems” formula or include a clause pertaining to Taiwan being a part of the PRC. Instead it simply upheld the One-China Policy.

### Taiwanese Identity

Sheldon Appleton (1970), an American professor of political science, studied attitudes of students in Taiwan. He looked at surveys that compared the attitudes of the Taiwanese and Mainlander students. He found that despite the economic and political disparities and a tendency for the Mainlanders and Taiwanese to usually mix within their own group and not with the other group, “the students on Taiwan responded to the battery of questions put to them essentially as members of a single (unified, not fragmented) political culture”<sup>57</sup>. Essentially, despite differences in class and power, the Mainlanders and Taiwanese shared similar political outlooks. He remarked that the differences that are noticeable can be traced back to the time the Mainlanders came to Taiwan. Lucian W. Pye (1986) said that since Taiwan is not politically monolithic,

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<sup>56</sup> “Taiwan In Search of A Strategic Consensus.” *The Atlantic Council of The United States*. 2006.

<sup>57</sup> Sheldon Appleton. “Taiwanese and Mainlanders of Taiwan: A Survey of Student Attitudes.” *The China Quarterly*, No. 44, Oct-December 1970 p. 56.

Western analysts that pushed for Taiwan to be more “trusting and responsive” to PRC initiatives did not recognize that there are opinion groups on Taiwan that limit Taiwanese leader’s freedom of choice. He also pointed out that the issue of Taiwanese sovereignty served a function that was not recognized by many analysts. Those who believed that their claim of sovereignty was merely a holdover from the ROC in China period were mistaken. “By agreeing to the pretension of sovereignty, Taiwanese are able to pass a loyalty test and freely join both the KMT and the dang-wai”.<sup>58</sup> Pye described the “pretension of sovereignty” as the myth that the government was a sovereign entity and not just the administrator of a province. Pye also observed that at the time much of Taiwan’s economy was dominated by Taiwanese, and that social relations on the island were generally easy. He observed that there were many mixed (Taiwanese/Mainlander) marriages. The main areas where tensions existed were in the political arena.

Trong R. Chai (1986)<sup>59</sup> wrote that “The Taiwanese are no more Chinese than the Americans are British”. He acknowledged that the Taiwanese population is almost all ethnically Chinese, but that the 90 year separation from the Mainland had changed their identity. In Trong’s view, if China’s claim over Taiwan is valid because the Taiwanese are “Chinese”, China could make a similar claim and annex Singapore.

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<sup>58</sup> Pye. 616.

<sup>59</sup> Trong R. Chai. “The Future of Taiwan.” *Asian Survey* Vol. 26, No. 12, December 1986 p. 1314.



In 1987 Chen Qimao wrote a paper that responded to Chai and discussed the PRC's view on cross-strait relations. His goal was to refute certain ideas that contradict Chinese claims of sovereignty over Taiwan. Chen claimed that except for a small minority that are dedicated to the cause of Taiwan independence, most Taiwanese will still identify as "Chinese". He claimed that the majority of Taiwanese believe that one day Taiwan and China would be unified<sup>60</sup>.

Niou and Hsieh (1996)<sup>61</sup> wrote that National identity in Taiwan "is probably the most controversial and divisive issue in Taiwanese politics". They also wrote that most Mainlanders believe that Taiwan should one day be unified with the Mainland and that those who prefer independence are almost exclusively Taiwanese.

Political scientist Shelley Rigger (1999-2000)<sup>62</sup> examined the issue of the Taiwanese identity. She argued that social scientists have placed too much emphasis on the correlation between National Identity and the independence/unification issue. The dichotomous definition of Taiwanese identity has prevented social scientists from adequately understanding the issue. Having a National identity in Taiwan does not necessarily lead to a desire to permanently break away from the Mainland.

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<sup>60</sup> Qimao, Chen. "The Taiwan Issue and Sino-US Relations: A PRC View." *Asian Survey*, Vol. 27, No. 11 Nov. 1987 pp. 1161-1175.

<sup>61</sup> Emerson Niou and , John Fuh Sheng Hsieh. "Salient Issues in Taiwan's Electoral Politics." *Electoral Studies*, Vol. 15, No. 2, 1996 p. 222.

<sup>62</sup> Shelley Rigger. "Social Science and National Identity: A Critique" *Pacific Affairs*, Vol. 72, No. 4 Special Issue: Taiwan Strait Winter 1999-2000 p. 537.

Yuan Peng (2004), a scholar at the Brookings Institution, discussed the idea of Taiwan identity as opposed to Taiwan independence. He mentions that the US and China have different interpretations of Chen's 2004 victory. "For many American analysts, the 2004 election increased focus on "Taiwan identity" rather than on "Taiwan independence"...For Mainland Chinese, the election implies that the pro-independence forces have gradually risen to dominance and will continue to guide Taiwan domestic politics. He also stressed that "Taiwan identity" and "Taiwan independence" are two different concepts which should not be confused with each other. "Taiwan Identity" is the Taiwanese people's sense of themselves, it is a natural product of their self-awareness, that the people in Taiwan as an entity possess distinct qualities that differentiate them from others (Mainlanders or Chinese), or the others from them." He also described three main reasons why the Taiwan identity was formed in the first place. The first reason relates to ethnic integration. With Taiwan containing Mainlanders, Hakka, Taiwanese, and Aborigines all on an island, identifying as Taiwanese becomes common sense for most people in Taiwan. Another reason is simply that Taiwan has been politically separated from the Mainland since 1894 (albeit united for a short period after World War II), and therefore has had its own concerns. The third reason is that throughout their history, the Taiwanese have traditionally had the need to react with and deal with outsiders. Resisting outsiders certainly provides a motivation for forming a local identity.<sup>63</sup>

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<sup>63</sup> Peng Yuan. "The Taiwan Issue In the Context of New Sino-US Strategic Cooperation."



## Developments in Taiwanese Society

Tun-Jen Cheng (1989)<sup>64</sup> traced the development of democracy in Taiwan. He attributed the successful rise of democracy in large part to the middle class that grew during Taiwan's period of economic growth which started in the early 1960s. The growth of this intellectual middle class led to the spread of democratic ideas and the opening of forums that made it impossible for the KMT to control.

In 1994, Nancy Bernkopf Tucker illustrated the significance of the creation of the DPP. "The energizing of the opposition, leading to the creation of the Democratic Progressive Party, transformed the political dialogue in Taiwan during the 1980s. Although it remained possible to be arrested for political crimes, new areas of discourse became acceptable in the public arena". Due to the fact that most people who were a part of this movement were Taiwanese, issues such as self-determination became prominent.<sup>65</sup> Alan M. Wachman (1994) pointed out that throughout the period which led up to the 1992 Taiwanese Legislative Yuan election, the "most significant opposition to the KMT existed as

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CNAPS Working Paper, November 2004, The Brookings Institution.

<sup>64</sup> Tun-Jen Cheng "Democratizing the Quasi-Leninist Regime in Taiwan." *World Politics* Vol. 41, No. 4 July 1989 pp. 471-499.

<sup>65</sup> Nancy Bernkopf Tucker. *Taiwan, Hong Kong, and the United States, 1945-1992: Uncertain Friendships*. New York, Twayne Publishers 1994. p. 181.

an expression of Taiwanese identity.<sup>66</sup> This means that the opposition was fueled by those Taiwanese that felt their identity needed more recognition.

Ralph N. Clough (1996)<sup>67</sup> wrote that Taiwanese society has been influenced by four main factors. These factors are: Traditional China; which has given the Taiwanese their language as well as basic culture and customs. Japan; the fifty year period of colonial rule on the Taiwan led to changes in Taiwanese society and also led to the Taiwanese having a different experience during those fifty years, The Republic of China; Since the ROC took control of Taiwan "bring from the mainland its ideology, its educational system, its constitutional structure, its political and social institutions, and a governing elite, most of whom spoke a different dialect of Chinese from the people of Taiwan."<sup>68</sup> The fourth major influence Clough mentioned is the cosmopolitan one. This cosmopolitan influence is mostly the influence of Western countries (originally mostly the United States) on Taiwan. Shui-Yan Tang and Ching-Ping Tang (1997)<sup>69</sup> pointed out the significance of the KMT's ability to remain in power despite holding open elections while Taiwan made the transition from a Leninist regime to a full-fledged democracy. They remarked that Taiwan's situation at

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<sup>66</sup> Alan M. Wachman. *Taiwan, National Identity and Democratization* New York, and London, M.E. Sharpe, Armonk, 1994 p. 255.

<sup>67</sup> Ralph N. Clough. "The Enduring Influence of The Republic of China On Taiwan Today." from *The China Quarterly*, No. 148, Special Issue: Contemporary Taiwan, Dec. 1996 pp. 1054-1071 .

<sup>68</sup> *ibid.* p. 1054

<sup>69</sup> Shui-Yan Tang and Ching-Ping Tang. "Democratization and Environmental Politics in Taiwan." *Asian Survey*, Vol. 37, No. 3 (March 1997).



that time marked an exception to Samuel P. Huntington's theory that in the "third wave" of democratization "almost all authoritarian regimes that tried to legitimize their *de facto* authority via open elections were eventually defeated by the ballot"<sup>70</sup>.

David Lampton (2000)<sup>71</sup>, a professor of China studies at Johns Hopkins, discussed the idea that Chinese leaders need to have proper Taiwan credentials in order to maintain authority. He discussed the facts that while trying to secure his position as China's future leader, Jiang Zemin needed to establish his toughness on Taiwan. After he established his Taiwan credentials, he was able to be more flexible with his policies. A similar point was made by Yun-han Chu in 2004<sup>72</sup>. He mentioned that Chinese leaders like to take their own stance on Taiwan policy. When Deng Xiaoping was the Chinese leader, he created the "one country, two systems" policy. He mentioned that Chinese leaders have to deal with the Taiwan issue very carefully because it is an issue of great importance. If mishandled, it could possibly destroy the career of a Chinese leader. On the other hand, rewards from the Taiwan situation are more long-term rather than short-term. Basically, it is an issue of utmost importance that new Chinese leaders must address.

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<sup>70</sup>ibid. 282

<sup>71</sup> David Lampton. *Same Bed Different Dreams: Managing U.S.-China relations, 1989-2000*. Berkeley: University of California Press, 2001.

<sup>72</sup> Yun-han Chu. "Power Transition and the Making of Beijing's Policy towards Taiwan." 2004 *The New Chinese Leadership: Challenges and Opportunities After the 16<sup>th</sup> Party Congress*, The China Quarterly Special Issues New Series No. 4. Ed. Yun-han Chu. Cambridge University Press, 2004.

T.W. Wang (2001)<sup>73</sup> pointed out the significance of Chen Shuibian's victory in the Taiwanese election as well as its large impact on the course of cross-strait relations. He also noted that Beijing's pre-election threats (in 1999/2000) backfired and in fact helped the DPP. The other issue he discusses is that for political reasons, Chen Shuibian was unable to accept the One China principle.

In 2005 Richard C. Bush III discussed the idea that the Mainland and the Taiwanese are "talking at each other" rather than working with each other. In his view, the Mainland has consistently proposed a "one country, two systems" model similar to the one being used with Hong Kong. However, even during periods when Taiwan's government has accepted a "one China" policy, it has always rejected this model. Instead, he says that "And as I read it, Taiwan has always taken the position that we possess sovereignty- we're not going to be like Hong Kong- and that the Republic of China has existed, and if there's going to be unification, it has to be on those terms"<sup>74</sup>.

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<sup>73</sup> T.Y. Wang. "Cross Strait Relations after the 2000 Election In Taiwan: Changing Tactics in a New Reality." *Asian Survey*, Vol. 41, No. 5 Sept-Oct 2001.

<sup>74</sup> "Untying the Knot: Making Peace in the Taiwan Strait: A Discussion With Richard Bush" Monday, Sept. 12 2005 The Brookings Institution, [www.brookings.edu](http://www.brookings.edu).



### Chapter Three: The Current State of Relations Between the United States of America, and the People's Republic of China

This chapter is included in this thesis for the purpose of understanding the relationship between the U.S. and the PRC. For almost the entire span of the history of the Republic of China on Taiwan the U.S. has had a security interest in Taiwan and had acted as a protector of Taiwan (see chapter four). Taiwan was the recipient of American economic aid for much of its early history. When a law like the ASL is passed, its effects are not limited to cross-strait relations. Since the PRC was likely aware of this when it passed the law, it is probable that the PRC considered the effect the ASL would have on Sino-U.S. relations. Therefore, it is important to briefly discuss the state of Sino-U.S. relations, in order to better understand the reasons for the passage of the ASL in 2005 as well as what effects the ASL had and will have on this relationship and the Taiwan-U.S. relationship.

The relationship between the US and China is in some respects adversarial and in other respects cooperative. Jing Dongyuan summarized the current state of the U.S.-Chinese relationship. "Since September 11, China and the U.S. have cooperated closely on seeking solutions to the North Korean Nuclear crisis, fought the global war on terrorism and promoted regional peace and stability from the sub-continent to the Asia-Pacific. Former secretary of state Colin Powell described the relationship as its best in 30 years. That assessment was endorsed by the Chinese leadership. However, over the past few months, the bilateral

relationship has come under increasing strain. Beijing was chastised for its currency manipulation that kept the exchange rate arbitrarily low for unfair trade advantage; this was blamed for the huge US trade deficits with China and the loss of American jobs. US intelligence and Defense officials sounded alarm over and raised questions about China's increasing defense spending. The Pentagon report on Chinese military power suggests that Beijing's ambitions for sphere of influence go beyond the Taiwan Strait. Congress views the Chinese state-run China National Offshore Oil's bid to acquire Unocal of the US as a potential threat to US energy security."<sup>75</sup>

One major facet of the relationship in recent history has been economics. It has even been argued by some that economics is in fact the most important area of Sino-US relations.<sup>76</sup> China has maintained a state of very high economic growth from the beginning of its "open door policy" in the late 1970s. The fast pace of Chinese growth continues, and in fact the PRC has taken measures to make sure the Chinese economy will not overheat. From 1990-2004 the Chinese economy grew at an average rate of ten percent, which was the highest in the world. China is now the world's third largest trading nation behind the U.S. and Germany. The U.S. is one of China's top trading partners. In the year 2004, China's trade surplus with the U.S. was 162 billion U.S. dollars. Many products

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<sup>75</sup> Jing Dong Yuan. "China, US discuss their relationship" Jul. 30<sup>th</sup> 2005. <http://cns.miis.edu/pubs/other/jdyuan/050730.pdf>

<sup>76</sup> Cai Fanglei "Economic Perspectives: Economic Interests in Sino-American Relations" Van Wie Davis, Elizabeth *Chinese Perspectives On Sino-U.S. Relations, 1950-2000* Edwin Mellen Press, 2000, p. 157.



manufactured by American companies are made in China. Access to the Chinese market has been much broader since China's entry into the World Trade Organization in 2001.<sup>77</sup> In the economic sector, the U.S. and China have clashed over some issues. These issues include, but are not limited to, intellectual property rights, the trade deficit and imbalances in certain areas such as textiles, and the continued control the Chinese government exerts over its currency, the Yuan. On one hand, the PRC is a place where U.S. companies can take advantage of cheap labor, and then have their products shipped back to the U.S. On the other hand, the Chinese have also been accused of taking manufacturing jobs away from U.S. cities<sup>78</sup> by keeping the value of their currency artificially low. The loss of jobs due to the U.S. trade deficit with China is an important issue for the U.S. American pressure has caused China to take some action towards resolving these issues. However, the possibilities of high tariffs on Chinese goods and a trade war still exist.

In addition to economic and financial issues, the U.S. and China have a competitive relationship pertaining to issues of security and their militaries. During his testimony before the Committee Defense Review Threat Panel on Asia Armed Services Committee of the U.S. House of Representatives, Peter T.R. Brookes from the Asian Studies Center said:

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<sup>77</sup> U.S. State Department Website

<http://www.state.gov/r/pa/ei/bgn/18902.htm>

<sup>78</sup> "Commission Releases Study on the Job Effects of the Rising U.S.-China Trade Deficit." Jan. 11, 2005.

[http://www.uscc.gov/pressreleases/2005/05\\_01\\_11pr.htm](http://www.uscc.gov/pressreleases/2005/05_01_11pr.htm)

“There is no doubt that the rise of China will play the greatest role in defining and shaping the context and texture of the Asian security environment in the coming decades. In turn, China’s ascendance will have a significant effect on American interests in Asia...Perhaps no development is more disconcerting than China’s military buildup- a defense modernization program that is raising eyebrows in both Washington and across Asia...In addition to a growing defense budget, Beijing will also develop a world-class defense industry within the next 10 to 15 years. Though it currently buys most of its advanced weaponry from Russia, including SU-27 fighters, Sovremennyy destroyers, and Kilo-class submarines, China is making progress on developing its own cruise missiles, fighters, submarines, and naval ships and the Chinese military industrial complex develops. Further, a decision by the European Union to lift its current arms embargo against China will accelerate the modernization of the People’s Liberation Army.”<sup>79</sup>

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<sup>79</sup> Testimony of Peter T.R. Brookes, Senior Fellow for National Security Affairs and Director, Asian Studies Center, Before the Committee Defense Review Threat Panel on Asia Armed Services Committee of the U.S. House of Representatives. September 25, 2005.

<http://www.heritage.org/Research/AsiaandthePacific/tst093005a.cfm>



The effects of the Chinese military buildup and modernization on the cross-Strait relationship are significant. For example, one issue that Brookes brings up is the issue of the possibility of Europe lifting its embargo on arms sales to China. Since, according to David Shambaugh, the lifting of the embargo will help China modernize its military more quickly, it could possibly raise the threat that China poses to Taiwan and make the possible cost of U.S. aid to Taiwan higher. In an article presenting a position against the European Union lifting the embargo, Shambaugh wrote: "From the American perspective, none of these arguments touch the real issues: maintaining the security of Taiwan and preventing China from possessing European arms that might be used against American forces."<sup>80</sup> China's acquisition of more advanced weaponry could not only impact Sino-U.S. relations, but also cross-strait relations.

In recent years there have been events that have led to confrontations between the U.S and China. One notable situation that brought U.S.-Chinese relations to a boiling point was the Taiwan Strait crisis that took place during the years 1995-1996. It was at this time that President Clinton of the U.S., despite promises made to the Chinese, granted then Taiwanese President Li Denghui (李登輝) a visa to visit the U.S. Li Denghui while en route to other destination, was in Hawaii while his plane was being refueled. He requested to disembark the plane briefly and this request was denied. This denial made members of the U.S.

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<sup>80</sup>David Shambaugh "Don't lift the Arms Embargo On China." *The International Herald Tribune* Feb. 23, 2005.

congress upset at the treatment an ally had received at the hands of the executive branch of government<sup>81</sup>. In response, congress passed a resolution that recommended to President Clinton the granting of a visa to Li for a private visit to the U.S. Li Denghui had requested this visa to attend a gathering at his alma mater, Cornell University, in Ithaca, New York. The resolution in congress received such broad support that Clinton chose to respect it and granted Li the visa.

The fact that the U.S. had gone back on its word was not well received with the Chinese government. Before that point in time, the Chinese government mostly recognized the importance of dealing with the U.S. Executive branch (The President and his staff) rather than the Legislative branch (Congress). The Taiwanese had already for a long time been spending money on, and had been making efforts to lobby members of the U.S. congress. Congressional visits to Taiwan were not uncommon. However, the PRC typically only had dealings with the President and his staff. This incident illustrated the fact that the U.S. legislative branch could have an impact on Sino-US relations.

The Chinese responded to the visit and speech made by Li Denghui by performing some military exercises in the Taiwan Strait. These exercises were seen as a warning to the Taiwanese about their aspirations towards independence. The actions taken by China elicited a powerful response by Bill

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<sup>81</sup> Letter from Senators Frank Murkowski and Hank Brown to William Clinton, President. <http://www.fas.org/news/taiwan/1994/s940519-taiwan.htm>



Clinton. He ordered two aircraft carriers to the region to illustrate that the U.S. does have security interests in the region, specifically interest in the security of Taiwan. The act of sending aircraft carriers by the U.S. to the region was interpreted by many Taiwanese as American willingness to defend Taiwan. In a sense, there were Taiwanese that felt there was no need to worry about making conciliatory gestures to the PRC when the U.S. has shown it would aid Taiwan in the event of a Mainland attack. Furthermore, the fact that the Mainland was willing to threaten the Taiwanese in such a manner resonated strongly with some Taiwanese. The actions taken by the People's Liberation Army caused both "fear and dislike" among many Taiwanese and discouraged the desire for unification. After both sides had shown that the situation in the Taiwan Strait held importance for them, summits were held between the two heads of state, Clinton and Jiang Zemin of China<sup>82</sup>. This incident and the subsequent events that occurred as a result underscore the sensitivity of the U.S.-China relationship. Tensions can rise very quickly in the Taiwan Strait as a result of actions or words that may seem innocuous at the time.

Another issue that demonstrates the potentially inflammatory relationship between the U.S. and China is the issue of the surveillance plane that landed in Hainan Island in 2001. Following a midair collision between a U.S. surveillance plane and a PRC fighter jet in 2001, the fighter jet crashed and its

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<sup>82</sup> Chas. W. Freeman Jr. "Preventing War in the Taiwan Strait: Restraining Taiwan - and Beijing." *Foreign Affairs*, Jul-Aug. 1998 vol. 77 no. 4

pilot died. The U.S. plane was forced to land on Hainan Island in Southern China. The events that followed illustrate the potential for friction in the U.S.-Chinese relationship. China blamed the American pilot for the incident<sup>83</sup>, while the U.S. had maintained it was an accident. Ultimately, the crew of the plane was returned to the U.S. although the plane had to be dismantled since China refused to allow it to be flown off Hainan. The crisis was resolved when U.S. said it was "very sorry" about the Chinese pilot's death and the emergency landing without permission on Hainan Island.<sup>84</sup> One effect that this collision had, was the rupture of military ties between the U.S. and the PRC.<sup>85</sup>

Both of these incidents illustrate the potential to easily create standoffs between the U.S. and China. Both of these incidents created situations where both governments had to be careful in order to satisfy their domestic and foreign policy objectives. The following are some of the issues that the U.S. and the P.R.C. have that will require attention.

"The key American concerns are: the US trade deficit; intellectual property rights enforcement; access to China's domestic market under China's terms of accession to the World Trade Organisation; modernisation of the Chinese military; honouring the "one country,

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<sup>83</sup> "U.S. Chides China for Holding Spy Plane Crew" CNN News April 2, 2001.  
<http://archives.cnn.com/2001/WORLD/asiapcf/east/04/02/china.aircollision.03/>

<sup>84</sup> "Spy Plane back in US" July 6, 2001.  
<http://news.bbc.co.uk/1/hi/world/americas/1425318.stm>

<sup>85</sup> Thom Shanker, *The New York Times*, October 18<sup>th</sup> 2005.



two systems" model in Hong Kong; easing tensions with Taiwan; and creating a nuclear-free North Korea.

China's concerns include grasping the opportunity for economic development; preventing Taiwan from seeking independence; avoiding strategic competition with the US; ensuring access of Chinese products to the American market; and securing co-operation with the US on global issues such as a stable international oil market, environmental protection, anti-terrorism and non-proliferation."<sup>86</sup>

However, while this relationship will certainly meet some obstacles in trying to create warmer ties, there are reasons for thinking that the U.S. and China can overcome many of them. Since the attacks on the U.S. on September 11<sup>th</sup> 2001, President George W. Bush has embarked on what he called a "war on terror". At the time that this war began, the U.S. needed to shift its foreign policy focus on the Middle East and Al Queda. In order to fight the war on terror President Bush has sought allies. Jiang Zemin, China's leader at the time, gave his support for the war on terror. Additionally, he wanted U.S. support to fight what Beijing views as terrorists in places like Xinjiang.<sup>87</sup>

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<sup>86</sup> David Shambaugh. "Sino-American Bridges Need to be Repaired." *Financial Times*, Sept. 1, 2005.

<http://www.brookings.edu/views/op-ed/shambaugh/20050901.htm>

<sup>87</sup> Elizabeth Economy, The Council on Foreign Relations.

<http://www.cfr.org/publication.html?id=6255>

The U.S. has also needed China's help in stopping the proliferation of nuclear weapons. The major recent example of U.S.-PRC bilateral cooperation has been in the effort to convince North Korea to stop its nuclear weapons program. As North Korea's only regional ally, China has a special role to play as a go-between for the two sides. North Korea would prefer to have bilateral talks with the U.S. However, the U.S. prefers to have multi-party talks and prefers that Beijing pressure North Korea to give up its weapons program. In the view of the U.S. government, allowing two-way talks would act as a type of reward for North Korea's nuclear aspirations.<sup>88</sup> In recent months, the six party talks have made progress. While the U.S. and China have had differences over how the North Korea situation should be handled, they have been able to put aside some of these differences and reach compromises.<sup>89</sup> According to some, not letting North Korea get its hands on Nuclear Weapons is in the best interest of both parties. On issues like this one, U.S.-Chinese cooperation has been able to produce fruitful results.

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<sup>88</sup> Andrew F. Diamond and Daniel A. Pinkston. "Don't Outsource North Korea Problem To China." April 25, 2005.

[http://cns.miis.edu/pubs/other/pinkston\\_050425.htm](http://cns.miis.edu/pubs/other/pinkston_050425.htm)

<sup>89</sup> ABC News

<http://abcnews.go.com/International/wireStory?id=1172300&CMP=OTC-RSSFeeds0312>



## Chapter Four: The History and Nature of America's security commitment to Taiwan

The security commitment that the US has extended to Taiwan in one form or another has existed for over a half century. It is a very pertinent issue and a possible thorn in the side of the betterment of Sino-US relations. The implications of the commitment not only involve the US, China, and Taiwan, but also possibly involve the US's other security commitments in East Asia. In this chapter I intend to first discuss the history of the security commitment. I will also discuss how the security commitment has transformed over the years. The same commitment that the US extended to Taiwan under President Eisenhower is not the same commitment that exists today. Additionally I will discuss the implications the security commitment has had in recent years. Another issue that makes this commitment a salient issue regarding the situation in the Taiwan Strait is how the concept of US protection relates to the desire for independence or lack thereof on the part of the Taiwanese people.

The connection between the KMT and the U.S. dates back to the time the KMT was the government of Mainland China. The U.S. had aided the KMT against the CCP during their civil war on the Mainland. Aid was first given to the KMT in order to help China fight Japan during World War II. Following Chiang Kai-shek's retreat to Taiwan after losing the Mainland, the Americans

were apprehensive about continuing to help him. However, even after his failure on the Mainland, cultural and political factors led the U.S. to continue supporting his regime.<sup>90</sup>

At first during 1949 it seemed to the Americans that Chiang Kai-shek's fall on Taiwan would have been all but inevitable. In the wake of this determination, the U.S. had decided to withdraw its support for Taiwan. The government did not want to risk incurring Chinese anger over interference in the matter. Additionally, the President wanted to minimize the political fallout from the defeat of Chiang. Subsequently on the 5<sup>th</sup> of January in 1950 President Harry Truman announced that he would not have the U.S. intervene in the event of a Communist takeover of Taiwan. However, this situation did not last long. Support for Taiwan began to grow as a result of the China Lobby and the period of McCarthyism. "The importance of the China issue to McCarthyism and more broadly to the Republican Party had little to do with China. Developments in Asia became controversial because of the personal and partisan aims they could serve. Joseph McCarthy, guided by China lobby contacts, came to see the communism-in-China issue as a boost to his flagging career." It was during this era between the years 1951-1954 the U.S. State Department destroyed the careers of a number of China experts.<sup>91</sup> Because of the anti-communist sentiment felt by many in Congress, support for Taiwan was revived. Some support came through

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<sup>90</sup> Tucker. p. 25.

<sup>91</sup> *ibid.*, 31



continued economic aid. It has also been asserted that some members of the U.S. government secretly sold weapons to Taiwan.

The significant change that led to U.S. support of the government on Taiwan occurred in 1950 with the beginning of the Korean War. The Korean War brought the U.S. back into the Asian theater. Under the "Truman Doctrine" the U.S. undertook a policy of containing communism. This led the U.S. to reconsider its position regarding Taiwan. The Seventh Fleet was dispatched and given orders to patrol the Taiwan Strait. Chiang Kai-shek offered his support to the United Nations(UN) forces fighting in Korea. Additionally, Chiang held high-level meetings with U.S. General Douglas MacArthur who was the leader of the UN's coalition forces. This situation led to a more important role for Taiwan in U.S. strategic interests in Asia. Subsequently President Truman made U.S. military aid to Taiwan official. However, at this point he still felt that this aid was only temporary. Taiwan continued to benefit from the Cold War atmosphere. For example, when the U.S. signed a peace treaty with Japan, it set up bases on Japan and made Japan open diplomatic ties with Taiwan but not with the Mainland. Furthermore, in 1950 the Soviet Union boycotted the UN. This boycott, which some believe was actually partially fueled by the fact that the Soviet Union actually preferred the exclusion of the PRC at the UN<sup>92</sup>, helped pave the way for Taiwan to keep the "China" seat on the United Nations Security Council. The February 1951 resolution passed by the UN's general assembly which labeled

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<sup>92</sup> Fairbank and Twichett (eds.) *The Cambridge History of China* vol. 14, p. 278

China as an aggressor, made it unlikely that the PRC would be able to take the China Security Council seat anytime in the near future. The U.S. also changed its view regarding the status of Taiwan. While previously supporting Taiwan's status as a part of China, in June 1950 President Truman announced that Taiwan's permanent status would be pending until restoration of security in the Pacific.

President Truman was succeeded by a Republican, Dwight Eisenhower. Before Eisenhower became President, the KMT had hoped for a Republican in the White House because Republicans tended to be more sympathetic to their cause. While Eisenhower's policies were overall favorable towards Taiwan, the Taiwanese did not achieve all of their objectives. Taiwan lobbied to sign a mutual defense treaty with the U.S. "Nationalist Chinese determination to sign a mutual defense treaty with the United States yielded a draft agreement in the autumn of 1953 not long after Washington had concluded a similar pact with South Korea. But rather than welcome this indication of Taipei's affections, the State Department displayed reluctance to consider it seriously. Chiang Kai-shek thereupon marshaled his supporters both inside and outside the government to lobby for the agreement as a guarantee for his government's survival." Chiang eventually was able to obtain an agreement in December of 1954. After taking a "wait and see approach" this agreement formalized the alliance between the US and the Republic of China on Taiwan. However, there were certain stipulations.



Taiwan was not supposed to create hostilities between itself and the Mainland without prior approval of the US government.

Eisenhower made a commitment to defend the island of Taiwan from Mainland aggression, but he did not commit to the defense of the outlying islands, Quemoy and Mazu. This commitment marked the beginning of the usage of the “strategic ambiguity” strategy that the US still uses to this day. While some people have criticized this strategy, it has been effective in keeping the Taiwan Strait peaceful.

Strategic ambiguity has been used in two phases. The first phase was when Eisenhower refused to guarantee protection of Quemoy and Mazu by American forces, while he guaranteed US protection of Taiwan. The reason Eisenhower used this strategy is that he had two objectives in mind. His main goal was to keep both Mao and Chiang from starting a new conflict. By not giving Chiang protection over Quemoy and Mazu, Eisenhower was preventing Chiang from becoming too confident in American protection. This move had the effect of discouraging Chiang from making an attempt to retake the Mainland without US approval. On the other hand, the fact that the US still protected Taiwan island and left the possibility of protecting Quemoy and Mazu open, the Mainland was deterred from launching an attack on Taiwan.

The nature of the US security commitment to Taiwan changed in the 1970s. Richard Nixon’s historic visit to the PRC marked the beginning of a process that saw the US switch recognition from the ROC to the PRC. As the ROC began to

lose its legitimacy, its relationship with the US became weaker. Eventually in 1979 the US recognized the government in Beijing as the legitimate government of China and broke off formal ties with Taiwan. Along with this derecognition, came the end of formal US protection of Taiwan. Although the US security commitment technically ended, it does not mean that US protection completely ended. In 1979 the US congress passed the Taiwan Relations Act(TRA). This act made US concern for Taiwan security official. The TRA states that it is US policy that

“3) to make clear that the United States decision to establish diplomatic relations with the People's Republic of Chin rests upon the expectation that the future of Taiwan will be determined by peaceful means; (4) to consider any effort to determine the future of Taiwan by other than peaceful means including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States; (5) to provide Taiwan with arms of a defensive character and (6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan. (c) Nothing contained in this Act shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are



hereby reaffirmed as objectives of the United States.”<sup>93</sup>

The TRA provided a legal basis for continued aid to Taiwan. However, the Taiwan Relations Act was limited shortly after by the communiqué signed by the US and the PRC in 1982. The communiqué of 1982 imposed certain limits of arms sales and mentions that at some point US arms sales to Taiwan would be terminated.

“Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends gradually to reduce its sale of arms to Taiwan, leading, over a period of time, to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.”<sup>94</sup>

The PRC feels that over the years the US has been in violation of this communiqué because the communiqué was supposed to curb the US's long term

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<sup>93</sup> U.S. Consulate in Hong Kong  
<http://www.usconsulate.org.hk/ustw/geninfo/tra1979.htm>

<sup>94</sup> U.S. State Department Website  
[http://usinfo.state.gov/eap/Archive\\_Index/joint\\_communique\\_1982.html](http://usinfo.state.gov/eap/Archive_Index/joint_communique_1982.html)

arms sales to Taiwan. On the other hand, because of China's military buildup, the US has questioned the PRC's commitment to the communiqué, because in its view the PRC has created a situation that is not conducive to peace and stability.<sup>95</sup> The seventh point of the communiqué states that "The development of United States - China relations is not only in the interests of the two peoples but also conducive to peace and stability in the world."

Also, at the heart of the disagreement concerning arms sales, is the nature of US domestic politics. To the PRC, international law trumps domestic law in this situation, and therefore the US must honor the communiqué. Some on the American side claim that the Communiqué of 1982 was signed by the executive branch of the government, while the TRA was passed by congress, and therefore the obligations of the TRA outweigh the obligations of the communiqué.<sup>96</sup> In a limited fashion, American weapons sales to Taiwan continue. Often, the prospect of buying American weapons has created debate in the Taiwanese government. The more pro-independence factions of the government tend to support the purchase of American arms, while groups that support a "one China" policy tend to support limiting the purchases.

The possibility of US protection of Taiwan still exists. However, its form has changed. The US has withdrawn its previous defense commitment to Taiwan

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<sup>95</sup> John P. McClaren. "U.S. Arms Sales To Taiwan: Implications For The Future of the Sino-U.S. Relationship." *Asian Survey*, volume 40, no. 4, July-August 2000 pp. 622-640.

<sup>96</sup> *ibid.*



and replaced it with a different version. Instead of making a firm commitment to defend Taiwan island like it previously did, the US has simply modified its policy of strategic ambiguity. The US will basically side against the instigator in the event of a cross-strait crisis. It is presumed that if the PRC were to launch an unprovoked attack against Taiwan, the US would come into the conflict on Taiwan's side. On the other hand, should the attack be provoked by Taiwan, the US would stay out of the conflict. This policy of strategic ambiguity has received both praise and criticism. What makes the policy complicated is that it is not clear what Taiwan would have to do to incite an attack. "In the case of the Taiwan issue, successful deterrence requires that the US achieve a dual deterrence objective. That is, the US must not only prevent China from attacking Taiwan, but it must also discourage Taiwan from provoking China. Can the US deter both China and Taiwan from making a move that will upset the peaceful status quo by simply choosing to make a weak or strong commitment? Intuitively, if the US's commitment is too low, then China will, like the extended deterrence situation, still choose to attack Taiwan. If the US's commitment level is too high, however, then Taiwan will, under the blanket coverage of the US, choose to provoke China. Because that is not clear, it is also not clear what the US would consider to be provocation and what would be considered an unprovoked attack. At this point strategic ambiguity helps the US maintain a policy of dual deterrence and dual reassurance".<sup>97</sup>

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<sup>97</sup> Emerson Niou and Brett V Benson. "Comprehending Strategic Ambiguity: US

This strategic ambiguity strategy has received criticism. It has been argued that the best strategy for the US to use would be to simply let Taiwan have whatever weapons it may need for its defense and then drop any pretext of a security commitment. Ted Galen Carpenter explained that the while Americans admire the progress made by the Taiwanese and Taiwan is of some economic importance to the US, Taiwan's independence from the Mainland is not of vital interest to the US.<sup>98</sup>

Over the years the US security commitment to Taiwan has been a major issue in Sino-US relations. Weapons sales during the 1990s increased. President George Bush Sr. approved the sale of 150 f-16 fighter jets to Taiwan in 1992. President Clinton also allowed arms sales to continue<sup>99</sup>, and it seems that arms sales are not likely to stop in the near future. In fact, the most potent force limiting current arms sales to Taiwan may be the elements in the Taiwanese government that oppose the arms deals supported by the DPP and President Chen. In April 2001, George W. Bush pledged that the US would do "whatever it takes" to help defend Taiwan in the event of an attack from the Mainland. It seemed for a short while as if President Bush had backed away from a position of ambiguity. However, before the Taiwanese election in 2003, Bush seemed to back

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Security Commitment To Taiwan." Nov. 12, 2001.

<http://www.duke.edu/~niou/teaching/strategic%20ambiguity.pdf>

<sup>98</sup> Ted Galen Carpenter. "Let Taiwan Defend Itself." August 24, 1998 The Cato Institute.

<sup>99</sup> Dennis Hickey. "U.S. Taiwan Friendship Still Strong" *Taipei Times*. Thursday June 26, 2003.

<http://www.taipeitimes.com/News/editorials/archives/2003/06/26/2003056807>



down from his earlier remarks in an effort to keep Chen Shuibian from angering China with his intentions to hold referendums.<sup>100</sup> These referendums tend to create tensions in the Taiwan Strait.

In light of the U.S. security commitment to Taiwan, the ASL is a piece of legislation that has the potential to impact the U.S.-Taiwan relationship. However, in the period following the ASL, it appears as though its impact on the U.S. security commitment has been negligible. American military concerns have continued to exist in the Middle East rather than in East Asia.

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<sup>100</sup> Michael D. Swaine. "Trouble in Taiwan" *Foreign Affairs* March-April 2004. <http://www.foreignaffairs.org/>

## Chapter Five: Analysis of the Anti-Secession Law

The Anti-Secession Law was adopted by the Third Session of the Tenth National People's Congress of the PRC and went into effect as soon as it was adopted on the 14<sup>th</sup> of March 2005. The Law consists of 10 articles. English language media coverage of the ASL has mostly focused on Article 8, which is the Article that lays out the possibility of Mainland military action in certain situations. This article is extremely important due to the potential impact of a cross-strait conflict on worldwide security. However, a thorough look at the ASL shows that the law is about more than just preventing secession. The ASL in some respects is a representation of China's Taiwan policy. The articles of the ASL lay out areas where China feels steps should be taken in order to improve cross-strait relations. In this sense, the ASL could also be viewed as promoting better relations across the Taiwan Strait. One possible flaw that exists within the ASL is its lack of specificity. It sets a general policy to improve cross-strait ties in certain ways and puts into law China's willingness to use non-peaceful means to end the cross-strait dispute, however, it does not delineate exactly what Taiwan secession means. However, this may also allow the PRC a high degree of flexibility. Since the PRC already has no real control over Taiwan, in certain ways Taiwan has already seceded. Basically, the issue over what constitutes "Taiwan independence" has not been settled by the passage of the ASL.



One point worthy of discussion concerning the ASL is its name. While the naming of the law makes its focus the prevention of what China sees as the secession of Taiwan, the ASL is not just a law against secession. So, why did China not choose to name it the “pro-unification law” or perhaps give it a different name altogether? It is important to note, that in 1999 Zhang Nianchi, a Mainland expert on the Taiwan issue, proposed a “unification law”. However, a law that focuses on unification may have to lay out a specific plan as to how to implement it. Because the Taiwanese have consistently rejected unification under the “one country, two systems” policy, unification would most likely need to take place under a different system. At this time, it is doubtful that the two parties could agree on a system that would lead to mutual satisfaction. As political scientist Zhu Zhiqun wrote, “The passage of a new law regulating regulations between Taiwan and China is indeed a testament to the flexibility of current Chinese leaders to face reality and change a failing policy”.<sup>101</sup> By putting the emphasis on preventing secession, Chinese leaders are proscribing a certain action, but leaving the door open for others. Additionally, with the threat of military action, as well as the offer of improved relations, the PRC has illustrated exactly how it will implement its plan of preventing secession. The question of how to unify the two sides could be handled in the future. The drawback of

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<sup>101</sup> Zhiqun Zhu. “Secession Bill Shows China’s Wisdom.” December 21, 2004. <http://www.atimes.com/atimes/China/FL21Ad02.html>

naming it the Anti-Secession Law is that the name would likely carry a negative connotation in comparison to a “unification law”.

Furthermore, the wording of the ASL’s name is interesting because it presupposes that Taiwan is currently a part of China, despite the fact that China is pursuing “re-unification”. In order for Taiwan to legally “secede” it must be a part of a larger legal entity. By labeling the forces pushing for “Taiwan independence” as secessionist, the PRC is reinforcing its view that the Taiwan matter is an internal Chinese affair. Taiwanese leaders contradict the idea that Taiwan is a part of the PRC. They believe that they are a sovereign country under the name of the Republic of China.

The first article of the ASL lays out China’s goal of guarding its sovereignty and protecting its territorial integrity. China’s motivation for regaining Taiwan is that the Chinese feel that Taiwan is an inalienable part of China that must not be severed from the Mainland<sup>102</sup>. Additionally, it points out that the ASL’s purpose is to oppose the forces that promote “Taiwan independence” and to bring about a peaceful unification of the two sides.

Article 2 repeats some of the points made in the first article. It repeats China’s intention to not allow Taiwan independence and repeats the intention to safeguard territorial integrity. However, in this article, the ASL lays out the belief in the “one China” principle. It should be noted that the ASL mentions that there

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<sup>102</sup> Qimao Chen. “The Taiwan Issue and Sino-U.S. Relations: A PRC View.” *Asian Survey*, Vol. 27, No. 11 Nov. 1987 p. 1161.



is only one China and that the Mainland and Taiwan are both a part of this "China". However, the ASL uses the term "*zhongguo*" (中國, which means "China") rather than using "*Zhonghua renmin gongheguo*" (中華人民共和國) which refers to the PRC.

The fact that the ASL does not explicitly state that Taiwan and the Mainland both belong to the PRC supports the idea that the ASL is ultimately aimed at restoring and maintaining the 1992 consensus of "One China, Two Interpretations". The acceptance of the "one China" principle is of great importance to Beijing. Its willingness to negotiate about the future of cross-strait relations depends upon all parties involved agreeing on this principle.

Article 3 of the ASL clarifies how Beijing views the nature of the current situation. It mentions that the "Taiwan question" is a still unresolved issue dating back to the Chinese Civil War. It then proceeds to say that solving this issue is an internal Chinese affair. The Chinese government has had to deal with interference on the part of the US in the past. US interference in the Taiwan situation has traditionally been criticized by China because the issue is seen as an internal matter by the PRC. Generally the PRC has sought to curtail any outside interference at all in the situation.

Article 4 lays out the desire on the part of the Chinese people to unify Taiwan with the Mainland. The fifth article of the ASL mentions that the Mainland "shall do its utmost with maximum sincerity to achieve a peaceful reunification". It also brings up the fact that once unification has taken place,

Taiwan will enjoy a certain amount of autonomy as well as practice a different system from the Mainland (Taiwan would not be subject to Communist laws). Historically, China had offered Taiwan unification under a "one country, two systems" policy similar to the one it used in the cases of Hong Kong and Macau, which are Special Administrative Regions of the PRC.

Article 6 lays out a series of measures that the Mainland will take in order to maintain "peace and stability" in the Taiwan Strait and in hopes of promoting cross-strait relations. It mentions five measures. The first one, which is meant to encourage personal exchanges, has already been put into effect. As other chapters discuss, shortly after the passage of the ASL, the KMT received invitations to visit the Mainland. The second measure to be taken by the PRC would be the promotion of the three links ("*santong*" 三通) as well as promoting greater economic ties. In recent years, there has been some development in the area of the three links, which consist of air, postal, and shipping links. The Chinese New Year holiday periods in 2005 and 2006 saw direct chartered flights between Taiwan and the Mainland. The third measure discusses Beijing's intention to encourage cross-strait exchanges in areas of "education, science, technology, culture, health and sports, and work together to carry forward the proud Chinese cultural traditions." The fourth measure is meant to encourage cross-strait cooperation in dealing with crime. The fifth measure is quite general. It reads that the state will take measures to "encourage and facilitate other activities that are conducive to peace and stability in the Taiwan Straits and



stronger cross-Straits relations".<sup>103</sup> This section of the ASL does not specify specific actions that will be taken. It encourages support for the improvement of cross-strait relations and basically lays out general areas where relations should be improved.

The seventh article begins by mentioning that when the two parties negotiate they will be on "equal footing". This statement is likely there to assure Taiwan that if negotiations on the issue of unification take place, Taiwan would not be in a position of inferiority. Whether or not that would really be the case is unknown. The PRC continues with its fast military buildup and continues to grow economically. In light of the fact that China has more international recognition and is a member of the United Nations Security Council, it enjoys significantly more power and influence than Taiwan. In this situation, since both parties do not have equal power and influence it would be unlikely that Taiwan could enter any negotiation for unification on an equal footing with the PRC.

Article 7 continues to state that the consultations and negotiations can be conducted in "steps and phases and with flexible and varied modalities". It continues to state that the two sides may negotiate on certain matters. These matters are 1) to officially end the state of hostilities in the Taiwan Strait, 2) to map out the development of cross-strait relations, 3) steps that would lead to unification, 4) "the political status of the Taiwanese authorities", 5) room for

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<sup>103</sup> ASL, Article 6, clause 5

Taiwan to operate internationally in a way that is compatible with its status, 6) "other matters concerning the achievement of peaceful national reunification".

While article 6 is meant to encourage better relations across the Taiwan Strait, article 7 is meant to put out a framework for negotiations on unification. I believe it is important to note that this article is not very specific on the matters it is addressing. For example, the sixth matter that the PRC mentions is "other matters" concerning unification. The vagueness of the ASL in this case may be attributed to the fact that the PRC leaders are trying to show flexibility. By not laying out very specific measures, the PRC is leaving the matter open to be determined later.

Article 8 is the article that has been mostly represented in the media from my observation. It is the article that authorizes "non-peaceful" means to stop "secession" from taking place. The ASL states that should secessionist forces "act under any name or by any means" to cause Taiwan's secession, or should any "major incidents entailing Taiwan's secession from China occur", or if there remains no possibility for peaceful unification, the PRC will use non-peaceful and other measures to maintain its territorial integrity. The second paragraph of article 8 authorizes the State Council and Military Commission to decide on and execute the actions laid out in Article 8 and to "promptly report to the Standing Committee of the National People's Congress"(全國人民代表大會常務委員會).

Article 8 displays the means which the PRC is willing to use to enforce its anti-secessionist stance. As it continues to build up its military, the ease of such



enforcement is likely to increase. However, it is important to note, that this article does not lay out a clear action which might provoke non-peaceful action on the part of the PRC. Additionally, article 8 does not define exactly what non-peaceful means would be used. According to certain figures, the PRC has at least 700 missiles aimed at Taiwan.<sup>104</sup> This would suggest that a military attack would be a likely approach. However, it is important to note that the meaning of “non-peaceful means” in this situation is vague. In my view, this vagueness allows the PRC a degree of flexibility.

Article 9 explains that in the event that the PRC would use non-peaceful means, it would do its best to minimize the losses that would occur as a result. It also says that it would protect the property of “Taiwan compatriots” in other parts of China. The final article of the ASL, article 10 states that the ASL is to come into effect on the day of its promulgation.

#### The Future of the ASL itself

It is possible that the ASL may see many changes in the future. Because the issue between Taiwan and the Mainland is not settled, the law may be amended as needed. According to the Taipei Times, China is currently in the process of amending the ASL. This new amendment, if made, would be meant to authorize arrests of those people who support Taiwan independence. According to the Taipei Times, “the new clauses will list penalties for Taiwanese nationals

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<sup>104</sup> <http://news.bbc.co.uk/2/hi/asia-pacific/4819312.stm>

who advocate Taiwanese independence or engage in separatist activities”<sup>105</sup> At this point it remains to be seen exactly what amendments will be made to the ASL. However, if the Taipei Times report turns out to be true, it will be pertinent to see if the amendments have any affect on the way the way the ASL has been received.

The wording of the Anti-Secession Law makes it apparent that the PRC was intent on allowing itself a great degree of flexibility in resolving the Taiwan issue. The ASL does not specifically state a legitimate government of “China”, but rather states that Taiwan and the Mainland both are a part of “China”. Furthermore, by not laying out exactly what Taiwan must do in order to provoke a Mainland attack, the PRC has left that decision for a later time.

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<sup>105</sup> Jing-Wen Tzou. “China May Amend ‘Anti-Secession’ Law.” *Taipei Times* March, 28, 2006.

<http://www.taipeitimes.com/News/front/archives/2006/03/28/2003299615>



## Chapter Six: Reasons Behind the Passage of the Anti-Secession Law

With the gradual democratization process that had begun in the 1970s, the idea of a Taiwanese consciousness became much more prevalent throughout Taiwanese society. This prevalence has been expressed in a numbers of ways. The rise of Li Denghui, a Taiwanese born President and his actions in regard to China, the rise of the DPP opposition party, and the victory of Chen Shuibian and Annette Lu in recent Taiwanese national elections all illustrate a fundamental change in policy. The previous policy regarding cross-strait relations in Taiwan, which existed mainly from 1949 up through the 1970s was to plan for the eventual return to the Mainland<sup>106</sup>. In this context the idea of a "one-China" policy would never have to be questioned because the KMT claimed to be the legitimate government not only of Taiwan, but also of the entire Mainland. While the dispute would be over which government legitimately should exercise authority over China, Taiwan's status as a part of China was not questioned by either government.

However, the changes that occurred after the death of Chiang Jingguo were of concern to the government on the Mainland. The process of democratization on Taiwan speeded up. While reviewing reasons for the Taiwan Straits Crisis of the mid 1990's Taifa Yu wrote "Clearly, China's decision to resort

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<sup>106</sup> Ralph N. Clough "The Enduring Influence of the Republic of China on Taiwan Today." *The China Quarterly*, no. 148, Special Issue: Contemporary Taiwan Dec. 1996 p.1061.

to military coercion was due largely to its rising concern that Taiwan's democratization and diplomatic offensives were rendering its strategy of national unification ineffective."<sup>107</sup> There are a number of possible reasons that China would view the democratization of Taiwan as counterproductive. The first reason is that in a democracy the elected government is accountable to the populace. As time has passed, the proportion of Taiwanese referred to as "Mainlanders" has decreased. These Mainlanders are the people who descend from the group of three million that came over to Taiwan along with Chiang Kai Shek. This group has been traditionally the base of support for the KMT party. Additionally, China would have cultural concerns. If Taiwan is democratic and the PRC is not, the Taiwanese people would be less likely to have the desire to unify with the Mainland. "Taiwan's democratization has greatly widened the gap between the two Chinas and, in spite of the PRC's booming economic development, had clearly made impossible not only a German-style unification of the Chinese nation but also the successful implementation of Deng Xiaoping's "one country, two systems" formula: the overwhelming majority of the Taiwanese are opposed to any unification with the PRC and, more dependant on its public opinion, the Taipei government has no choice but to express and

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<sup>107</sup> Taifa Yu. "Taiwanese Democracy Under Threat: Impact and Limit Of Chinese Military Coercion." *Pacific Affairs* Vol. 70 No. 1, Spring 1997 p. 8 .



defend this view".<sup>108</sup> For some Taiwanese, unification would only be possible in the event that China's political system becomes a multi-party democracy. The Mainland has traditionally criticized this stance. In 1998 Tang Shubei, a senior Mainland negotiator with Taiwan said "I think people who stipulate the social system and democratic construction as preconditions for reunification actually wish to delay the reunification process."<sup>109</sup> This quote illustrates the Mainland Chinese fear that Taiwanese democracy goes against their aim of unification.

In addition to the reasons stated above, I believe the case of Hong Kong also illustrates the Mainland's apprehensiveness toward democratic reforms. Despite the desire to use the "One Country, Two Systems" model that has been applied to Hong Kong and Macau as a possible model for reunification with Taiwan, the central government in Beijing has constantly had a hand in Hong Kong's internal affairs. In a statement before a US Senate subcommittee hearing concerning the perspectives of democracy in Hong Kong, John J. Tkacik Jr. said in 2004 that "China has begun the process of imposing its defense, internal security and intelligence priorities on Hong Kong via the so-called "Article 23" legislation. Finally the idea of "Hong Kong People Ruling Hong Kong" has been debased by Beijing's reneging on the spirit of its pledges in the Basic Law to

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<sup>108</sup> Jean-Pierre Cabestan. "Taiwan's Mainland Policy: Normalization; Yes, Reunification, Later." *The China Quarterly*, no. 148, Special Issue: Contemporary Taiwan, December 1996 p. 1261.

<sup>109</sup> "Taiwan Democracy Stance Delays Reunification-China." *Reuters*, December 28, 1998 taiwansecurity.org.

implement “universal suffrage” in the period “after 2007”.<sup>110</sup> The key point being made here is that the PRC has not been supportive of the movement toward democracy in the Hong Kong Special Administrative Region. The attitude of the Chinese government has even led to mass protests aimed at the central government by people in Hong Kong in favor of democracy. Since the PRC government claims Taiwan to be a rogue province, it would be inconsistent for them to be content with the democratic reforms made on Taiwan.

It should be noted that democracy in Taiwan has had a number of important effects on Taiwanese society. According to Yuan Peng, there have been four important results of Taiwan’s democratization which have had an impact on cross-strait ties. The democratization of Taiwan has led to debate over the independence/unification issue. It has also changed the nature of the US-Taiwanese relationship. Instead of having a relationship simply based on common interests, the US and Taiwan now share the common value of democracy that is not shared by the PRC. Furthermore, issues such as democratization and economic development, sovereignty, security, and dignity have proven to be fertile areas for de-sinification talk. This has proved to hinder consensus regarding the “one China” issue. The 1991 declaration by Li Denghui and the PRC of the ending of the Chinese Civil War along with the victory of the opposition party in 2000 in the presidential election ended any possibility that

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<sup>110</sup> John J. Tkacik jr. “Perspectives on Democracy in Hong Kong” March 4, 2004. <http://www.heritage.org/Research/AsiaandthePacific/tst081104d.cfm>



the CCP and KMT could together find a solution that connected with the civil war.<sup>111 112</sup>

It is apparent that one of the major changes that occurred in Taiwan that has irked the government in Beijing has been the rise of democracy there. However, there are other issues that have also been prevalent in leading up to the passage of the Law. Among those issues were certain events that took place during the tenure of former Taiwanese President, Li Denghui. Towards the beginning of his tenure, cross-Strait relations were actually improving. This improvement in relations was multi-faceted. Economic ties between Taiwan and the Mainland grew, as did the number of Taiwanese who were able to travel to Mainland China. Cross-Strait discourse occurred in 1992 and then continued in 1993. In 1993 representatives from both sides of the Taiwan Strait met in Singapore to discuss the future status of cross-Strait ties. This meeting produced an agreement concerning the state of cross-Strait relations. Both sides agreed to a policy of "one China, two interpretations". However, this situation did not last through the mid 1990s.

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<sup>111</sup> I believe this issue is of importance to the government in Beijing. Article 3 of the Anti-Secession law states that "The Taiwan Question is one that is left over from China's civil war of the late 1940s. Solving the Taiwan question and achieving national reunification is China's internal affair, which subjects it to no interference by outside forces" The grouping of the point of non-interference with the historical issue of the civil war illustrates that the PRC uses the Civil War issue partly to justify its opposition to the interference of other countries in cross-strait relations.

<sup>112</sup> Peng Yuan. "The Taiwan Issue in the Context of New Sino-U.S. Strategic Cooperation." Summer 2004, The Brookings Institute, Center for Northeast Asian Policy Studies, [www.brookings.edu](http://www.brookings.edu)

In chapter three I discussed the granting of an American visa to Li Denghui that ignited cross-strait tensions. The ensuing missile exercises and the reaction on the part of the United States represented the underlying potential for cross-strait conflict.

The PRC has maintained a policy of using military threats to keep the Taiwanese from moving too far toward what they view as independence. However, at the same time, the PRC has used other means to both keep the Taiwanese from declaring independence and to encourage the prospect of unification. Beijing basically employs two different strategies which are both aimed at achieving the same goal. In his article concerning Beijing's strategy in the Taiwan Strait, Sui Sheng Zhao wrote "Beijing's strategy of national reunification with Taiwan has been a mixture of military coercion and peaceful inducement. Coercive strategy relies primarily upon the use or the threat of use of force. It could take the form of military actions aiming at the conquest of Taiwan, or military brinkmanship using military force in an exemplary or demonstrative manner. In contrast, peaceful inducement appeals to cross-strait political negotiations and economic and cultural exchanges to bind Taiwan's hands from seeking independence and to build goodwill and momentum for eventual national reunification. And yet, military coercion and peaceful inducement are two sides of the same coin, coercive logic is embedded in Beijing's inducements, which can thus be termed "peaceful offense". Beijing has placed priority on either coercion or inducement at different times according to



changes in China's domestic politics and Beijing's perception of the international environment and Taiwan's internal politics."<sup>113</sup>What is illustrated here is that based on internal Taiwanese developments, Beijing's attitude tends to change.

Li Denghui once again proved capable of giving rise to concern on the Mainland when he called for direct elections in 1996. China timed missile exercises to coincide with the elections as a warning to the Taiwanese. Li Denghui continued to create situations that ignited tensions toward the end of his tenure. In July 1999, Li described the state of relations between Taiwan and China as being "special state-to-state[relations]". This statement drew the ire of the Mainland Chinese. After his comments were made, Mainland media hurled insults at Li.<sup>114</sup>

After these events occurred, the PRC felt it had to change its policy. Yu Taifa summarized the main causes of the need for China to change its Taiwan policy, and what those changes were. "Several troubling developments in Taiwan prompted China to review its policy of suspending quasi-official links with Taiwan. These developments included: 1) A steady increase in separatist sentiments; 2) Gradual erosion of popular support for the ruling KMT and increase in support for the pro-independence DPP; 3) Modernization of Taiwan's

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<sup>113</sup> Suisheng Zhao. "Military Coercion and Peaceful Offence: Beijing's Strategy of National Reunification with Taiwan." *Pacific Affairs*, Vol. 72, No. 4, Special Issue: Taiwan Strait, Winter 1999-2000 p. 495.

<sup>114</sup>

<http://www.cnn.com/SPECIALS/1999/china.50/inside.china/profiles/lee.tenghui/>

armed forces as a result of the deployment of advanced weapons from France and the U.S., which would bolster its will to reject unification; 4) Taiwan's drift farther apart from national unification as evidenced by proposed changes at the National Development Conference; and 5) The expansion of the U.S.-Japanese security treaty to include Taiwan within areas adjacent to Japan that both nations would collaborate to defend."<sup>130</sup> Furthermore, previously when the Chinese government had anticipated that in light of military coercion the wealthy Taiwanese would emigrate and the rest of the Taiwanese would respond by seeking unification out of fear of the Chinese threat, the Chinese were actually confronted with an increase in separatist sentiment.

Yu Taifa continued with a discussion of the strategy Beijing would take. "To prod Taiwan to enter negotiation, China adjusted some aspects of the strategy of national unification formulated during the Deng are: 1) Emphasizing "one country, two systems" as a reasonable solution to the problem of national unification; 2) accelerating Taiwan's diplomatic isolation; 3) Enhancing Taiwan's economic dependency on China as a place for investment and trade; and 4) confronting Taiwan with the specter of a military showdown."<sup>115</sup>

Beijing's fears of the DPP gaining power were realized during the Taiwanese presidential election in 2000. Before the election, Beijing attempted to curb Chen Shuibian's momentum. "The PRC's State Council issued a white

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<sup>130</sup> Taifa Yu. "Relations Between Taiwan and China after the Missile Crisis: Toward Reconciliation?" *Pacific Affairs*, Volume 72, No. 1, Spring 1999 p. 39-55.

<sup>115</sup> Ibid.



paper one month before the polls declaring three conditions under which Beijing would launch military attacks at the island. Known as "the three 'ifs'," these conditions are 1) if Taiwan declares itself independent, 2) if Taiwan is invaded and occupied by foreign countries, and 3) if Taipei refuses indefinitely to conduct negotiations on the issue of unification."<sup>116</sup> This election saw two candidates, Lian Zhan and James Soong basically split the KMT vote. Lian Zhan was the official candidate of the KMT, but Soong was able attract a large number of KMT voters. This split led to the victory of Chen Shuibian, who was the DPP candidate, with only 39 percent of the vote. The victory of Chen proved to be a milestone in Taiwan's history. He was the first opposition candidate to win in the presidential election. However, because the platform of his party is pro-independence, Beijing was automatically distrustful of Chen. For example, on December 11, 1999 before the election took place the Chinese ambassador to the U.S., Li Zhaoxing said that all candidates with the exception of Chen would be acceptable winners of the Taiwanese election.<sup>117</sup> Some other comments made by Chinese officials along with the white paper actually had the effect of giving Chen a slight boost at the polls.<sup>9</sup> Chen had made certain conciliatory gestures to Beijing, such as promising not to declare independence, not to insert Li

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<sup>116</sup> T.Y Wang. "Cross-Strait Relations after the 2000 Election in Taiwan: Changing Tactics In a New Reality." *Asian Survey* Volume 41, No. 5, Sept.-Oct. 2005 pp. 716-717.

<sup>117</sup> Taiwanese Government Website

<http://www.taiwanheadlines.gov.tw/19991213/19991213p2.html>

Denghui's special "state to state" relationship with the Mainland into the constitution, and not to hold a referendum on the independence and unification issue. This speech is known as the "five noes" in reference to the five main things Chen pledged not to do. However, these actions did not have the desired effect, partly because Chen is restricted by his party's platform and could not make a commitment for ultimate unification with the Mainland. Beijing made the acceptance of a one-China principle the ultimate condition for any cross-strait talks with Chen's government.<sup>118</sup>

During his first term, President Chen used certain tactics that led to Beijing remaining concerned. For example, in December of 2003 Chen threatened to renege on the "five noes" that he mentioned in his inauguration speech. "The 'five noes' promise I made in my inauguration speech is conditional upon Communist China's not intending to take military action against Taiwan...But During the past three years, Beijing has put in place more ballistic missiles targeting Taiwan, expanded its military expenditure on a large scale and repeatedly threatened Taiwan...All of these [actions] have clearly displayed its intention of using force against Taiwan...Therefore, my 'five noes' actually cease to exist while China wields the threat of military action. The reason I still pledge to firmly maintain the 'five noes' is because I am willing to make a concession with the other side of the Taiwan Strait." Chen continued by saying that if China

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<sup>118</sup> Yu Shan Wu. "Taiwan in 2000: Managing the Aftershocks of Power Transfer." *Asian Survey*, Volume 41, No. 1, "A Survey of Asia in 2000". Jan-Feb. 2001 p. 43-45.



would launch any missiles into the Taiwan Strait as it had in 1996 he would revoke three 'noes'.<sup>119</sup>As I previously mentioned, China's actions before the 2000 election actually helped Chen garner support. This point was not lost on Chen and he has used the "China card" to gain support at times. As Chen's popularity dropped he brought up certain issues such as referendums that would draw fire from China.<sup>120</sup>Chen In doing so he had hoped to rally his supporters before he ran for re-election in 2004.

As the incumbent candidate, Chen was again able to achieve victory in the Taiwanese elections in 2004 following an assassination attempt directed at him the day before the election took place. After his victory Chen announced that he would move ahead with certain constitutional reforms. Reforming the Taiwanese constitution is not looked upon favorably by Beijing. Beijing fears that possible constitutional changes in Taiwan could constitute a declaration of independence that may force it to take action. However, in an attempt to allay fears about the implications of his second victory toward cross-strait security, Chen announced that he would not make sensitive changes to the constitution. In his speech Chen said "I am fully aware that consensus has yet to be reached on issues related to national sovereignty, territory and the subject of unification/independence...Therefore, let me explicitly propose that these

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<sup>119</sup> "Chen Tells China He May revoke 'Five Noes' Pledge." *Taipei Times*, December 23, 2003. Taiwansecurity.org.

<sup>120</sup> Andrew Perrin. "Taking It To The Brink" *Time Asia*, Monday, December 8, 2003. <http://www.time.com/time/asia/magazine/article/0,13673,501031215-557122,00.html>

particular issues be excluded from the present constitutional re-engineering project". His speech did very little to allay Chinese concerns. Giving his opinion about Chen's speech, Zhu Weidong, of the Chinese Academy of Social Sciences in Beijing said that "He may have adjusted his tactics and eased his rhetoric, but we know the U.S. was very concerned about the speech and he was under pressure...How far he will adjust his tactics and whether he will do what he says are still not clear."<sup>121</sup>

China has made it apparent that she is willing to postpone a final resolution of the cross-strait issue for quite some time.<sup>122</sup> However, should China put off the issue of unification too long, it would run the risk of allowing Taiwan to drift too far apart in terms of culture and ideology. However, the ASL may help provide a framework for a possible future agreement. Using the ASL as a starting point for negotiations may allow Hu Jintao who has only recently come to power, some room to maneuver and at the same time not be seen as being too soft on Taiwan. Hu has displayed his willingness to negotiate and has also expressed his willingness to use force in order to stop Taiwan from declaring independence. In this situation it is important to look at Hu Jintao's predecessor, Jiang Zemin. When Li Denghui visited Cornell and made his inflammatory speech there, Jiang Zemin was forced to satisfy the hardliners in his government

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<sup>121</sup> Edward Cody. "Taiwan President Pledges to Hold Off Formal Independence." *The Washington Post*, May 20, 2004.

<sup>122</sup> Kenneth Lieberthal. "Preventing a War Over Taiwan." *Foreign Affairs*, March/April 2005.



by allowing military exercises in the Taiwan Strait. It was in the wake of this situation that Jiang was able to emerge with his own leadership position being vindicated.<sup>123</sup> The fact that Jiang was able to truly consolidate his leadership allowed him to exercise more authority in dealing with both Taiwan and the United States. "Only after Jiang had consolidated his power in 1997 and 1998 and had pushed Premier Li Peng to the margins was he able to take risks on his own"<sup>124</sup> It seems that Hu Jintao's situation may be similar. Being seen as too soft toward Taiwan could prove detrimental to any Chinese leader. The leader would not be seen as properly protecting China's territorial integrity.<sup>125</sup> By taking a firm stance on Taiwan and making it clear that he is willing to be tough if necessary Hu may have freed himself up for future negotiations.

The Anti-Secession Law mostly serves as a quiet warning. The Chinese government coupled the Anti-Secession Law with an invitation for notable members of the KMT party, as well as the People's First Party to come to China. Additionally, the wording of ASL is not very harsh. It does not proscribe any specific actions, and it expresses the Chinese desire for a peaceful solution to the cross-strait issue. The strategy being used here is different from the one used in the 1990s. Instead of using missiles and strong insults, the Chinese government

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<sup>123</sup> Parris H. Chang. "Changing of the Guard" *The Chinese Journal* No. 45 January 2001, p. 41.

<sup>124</sup> David M. Lampton. *Same Bed Different Dreams: Managing U.S.-China Relations 1989-2000*. Berkeley and Los Angeles, University Of California Press, 2001.

<sup>125</sup> Qimao Chen. "The Taiwan Strait Crisis: Its Crux and Solutions." *Asian Survey*, Volume 36 number 11, November 1996 p. 1059.

simply formalized the position it already had taken. However, the important part of this strategy involved the Mainland visits by the Taiwanese opposition officials. These visits limited the impact of the message being sent by ASL. They demonstrate China's willingness to negotiate. This tactic was likely used in order to help quell any anti-PRC sentiment caused by the ASL. Basically, the ASL is a way for China to use the "military coercion" approach without alienating the Taiwanese people and driving them further into the DPP camp. It has been noted that China's restraint in this situation may also simply relate to China's rising good opinion among many people as well as the intent to retain a good image before the 2008 Olympic games in Beijing. An editorial in the *Taipei Times* that discussed China's referral of the Taiwan issue to the United Nations suggests that the reasons for China's current strategy could be the one I just brought up, or that China is attempting to further alienate Chen Shuibian, this time by putting him in the position of being a "trouble maker".<sup>126</sup> Additionally, the prospect of Chen being seen as troublesome could be helpful for China. Since the US security commitment to Taiwan is based on the idea that the US would only defend Taiwan in the event of an unprovoked attack, portraying Chen as a troublemaker could help the PRC prevent US intervention. If the PRC attacked Taiwan and the US refused to help Taiwan, it is possible that the US could lose credibility with its other security commitments in East Asia. However,

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<sup>126</sup> Richard Hazeldine. "Just what exactly is Beijing Playing at?" *Taipei Times*, March 7, 2006. [www.taipeitimes.com](http://www.taipeitimes.com).



portraying Chen as someone who is merely provoking China could possibly give the US a way out of defending Taiwan without jeopardizing its credibility.

### Taiwanese Public Opinion and the ASL

Taiwanese public opinion is of great importance in the cross-strait situation because Taiwan's leaders are elected democratically. One of the most important issues, if not the most important issue in Taiwanese politics is the independence/unification issue. Most Taiwanese currently favor maintaining the status quo. As of 2004, there were some Taiwanese(around 25 percent) that support independence from China regardless of the consequences. On the other hand, there were some(around 27 percent) that were not in favor of independence. These two groups are committed to their stance on the independence/unification issue. However, around 46 percent of the population would favor independence under favorable conditions. Additionally, around 45 percent of Taiwanese would favor unification under favorable conditions. In other words, the plurality of Taiwanese could potentially support either independence or unification. Additionally, surveys indicate that there is a correlation between the threat China poses and the desire for independence. The more someone believes Taiwan faces a real threat from China, the less likely they are to support independence. Furthermore, the people that support

unconditional independence are more likely to believe that the US will interfere in the event of a cross-strait war.<sup>127</sup>

After examining the correlations to public opinion in Taiwan, it makes sense that the PRC would choose to pass a law like the ASL. By passing the ASL, Beijing has made it clear that it is not only willing, but could possibly be legally bound to go to war in the event that they deem Taiwan as having gone too far. Thus, the ASL is another part of China's military coercion strategy. Additionally, the ASL could end up enforcing a belief that if China totally commits to war in the Taiwan Strait, that the U.S. would be unwilling to get involved. In this sense the ASL could be viewed as deterring the U.S. from interfering in a cross-strait military conflict.

### Conclusion

The questions that are important to ask regarding the anti-secession law are not just concerning why it was passed in the first place, but also why the PRC chose to pass the law when it did. There have been periods when cross-strait relations have been sour, however those periods did not see the implementation of an Anti-Secession law or any similar law. The reason the law was passed now rather than before is that while the leaders in Beijing felt the need to warn

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<sup>127</sup> Emerson Niou. "Understanding Taiwan Independence and Its Policy Implications." *Asian Survey* Vol. 44, No. 4 July-August 2004.



Taiwan, which is something they have constantly done, they needed to do so in a way that would not alienate the very people they wished to win over, the people of Taiwan. Additionally, the election and re-election of DPP leaders were a cause of concern for PRC leaders. Other factors that could have contributed to the law's implementation are the need for a new generation of leaders to establish their credentials as not being soft on Taiwan. This may aid the leaders in Beijing in future negotiations with Taiwan by providing more room for flexibility. Furthermore, the ASL's implementation was timed to coincide with high level meetings between the KMT and the CCP on the Mainland. This sequence of events illustrates the new strategy being used by Beijing in dealing with Taiwan.

## Chapter Seven: Effects of the ASL

The prospect of the Anti-Secession Law at first gave rise to some anti-PRC sentiment in Taiwan. With the support of President Chen, many Taiwanese took to the streets in order to voice their opposition to the ASL. In March of 2005 hundreds of thousands of Taiwanese marched to protest the law<sup>128</sup>. The protesters were joined by Chen Shuibian, however as I like to call it, the “March in March” did not have a detrimental effect on the PRC’s standing with the Taiwanese people, and neither has the ASL.

In a bid to give legitimacy to the claim that the PRC only wants peace with Taiwan and that the Anti-Secession Law is only aimed at deterring pro-independence activists, Beijing invited the KMT party leader at the time and former presidential candidate Lian Zhan to come to China and meet with government officials. They also invited the leader of the People’s First Party (PFP), also a former presidential and vice-presidential candidate, James Soong. I will discuss exactly how these visits came about and the effects and possible effects they have had on Cross-Strait relations. I will return to the KMT and PFP Mainland visits shortly.

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<sup>128</sup> Stephan Grauwels. “Taiwan Protests Anti-Secession Law.” March 26, 2005. <http://www.taiwandc.org/ap-2005-02.htm>



Another important reaction to note, was the reaction of the US to the Anti-Secession Law. Because Taiwanese security is of concern to the US, the law was not welcomed by the Bush administration. During a visit to Beijing in late March 2005 Condoleezza Rice, the Secretary of State for the Bush Administration informed the Chinese government that while the US supports a "one China" policy, the US does have obligations to Taiwan as described in the Taiwan Relations Act, and expressed her feeling that the Anti-Secession Law would create tensions in Taiwan Strait. The White House described the law as "unhelpful"<sup>129</sup>.

However, besides this rather muted response, the Bush administration did not respond to the Anti-Secession Law in the same way the Clinton administration responded to the missile exercises in the 90s. Instead of sending aircraft carriers or putting any diplomatic pressure on China, the US has focused on other aspects of its relationship with China. In fact, in 2005 the US has placed its focus more on two other issues. Recently, the US has been very concerned about the situation in North Korea. Since the government of the DPRK (Democratic People's Republic of Korea) announced that it was restarting its nuclear program, the US has constantly sought Chinese help in pressuring North Korea to halt its nuclear program. China's help in organizing six party talks with North Korea has been instrumental and it is unlikely the US would

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<sup>129</sup> "US unease at China's Taiwan Law" BBC News, March 9, 2005.  
<http://news.bbc.co.uk/2/hi/asia-pacific/4331443.stm>

want conflict over Taiwan to get in the way of halting the North Korean nuclear weapons development.

There are two other reasons why I believe the US response to the ASL was very mild. Recently, due to mounting pressure in the US, the US government has been pressuring China to un-peg its currency to the US dollar. The US has applied pressure to the Chinese government in an effort to have the Chinese change their currency policy and to take other actions that would help in reducing the large trade deficit. The other reason why the US did not have a strong reaction to the law is that since September 11, 2001(9/11) the US military has been occupied fighting the war on terrorism. Since 9/11 the US has launched invasions of Afghanistan and Iraq, and continues to fight in both countries. Over 100,000 US soldiers are currently stationed in Iraq. The cost of the war on terror has been high, both monetarily and politically. In some respects that US military is already stretched and occupied in the Middle East, and adding another venue would be counterproductive. These factors would make it very unlikely that the US would want to engage in conflict with China at this time.

It is also very possible that the Anti-Secession law was helpful to the US<sup>130</sup>. As a reaction to the 1989 Tiananmen Square incident, Europe has had an embargo on arms sales to the PRC. In recent years the PRC has strenuously lobbied to have this embargo lifted. It has referred to the embargo as "political

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<sup>130</sup> Ralph A. Cossa. "Anti-Secession Law, Closing (Or Opening) the door?" Pacific Forum CSIS. Honolulu, Hawaii March 28<sup>th</sup> 2005.



discrimination". The PRC has also offered economic incentives to some European countries to encourage them to lift the embargo. The possibility of lifting the embargo has been strongly opposed by the US. The US feels it would be improper for its allies in Europe to sell weapons to China while China's human rights record is still dubious, and while it continues to threaten Taiwan. Additionally, the US feels that lifting the arms embargo will adversely change the balance of power in the Taiwan Strait.<sup>131</sup> However, despite American reservations, the European Union seemed set on lifting the arms embargo. They intended to replace the embargo with certain other rules against weapons sales. However, the impact of the anti-secession law changed the direction of the momentum in Europe. European governments, such as France and Germany<sup>132</sup>, that supported ending the embargo were dealt a setback when China passed the law. As China has risen economically and expanded its military, the Chinese government has repeatedly attempted to make it clear that its rise is peaceful and of no threat to anyone. The passage of the law strengthened the position of those that look more skeptically at China's rise. While the US has officially referred to the Anti-Secession law as being "unhelpful", it is important to note that in this situation the law actually was indirectly helpful toward US interests. In this case, the law was a political setback for China. It has tried very hard to get Europe to

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<sup>131</sup> Peter Brookes. "The Lifting of the EU Arms Embargo On China: An American Perspective." March 2, 2005. [www.heritage.org](http://www.heritage.org)

<sup>132</sup> From BBC News, Wednesday January 12, 2005  
[http://news.bbc.co.uk/2/hi/uk\\_news/politics/4167693.stm](http://news.bbc.co.uk/2/hi/uk_news/politics/4167693.stm)

lift the embargo, and it is most likely that the Anti-Secession Law will delay it from being lifted.

Despite these US and EU reactions, the Anti-Secession Law has generally been in China's favor. Putting aside the protests in Taiwan and an unsuccessful attempt by the Taiwan Solidarity Union to pass a bill countering the law, events which both occurred shortly after the ASL was passed, China has largely achieved its main immediate goals with the ASL. At the end of March, 2005, representatives of the KMT visited the Mainland and held talks with officials there. The talks focused mostly on economic issues and opening up more links between Taiwan and the Mainland. At that meeting it was agreed that in certain areas cross-Strait ties should be improved. Among those areas are the possibility of having more cross-strait flights, strengthening agricultural cooperation, initiatives to help Taiwanese investors in China, help in allowing media from both sides to have greater access across the strait, possibly joint crackdowns on crimes, and a system of reciprocity where students can study across the strait and pay the same school fees.<sup>133</sup> Additionally it was at this time that the PRC extended an invitation for a later Mainland visit by Lian Zhan. Lian Zhan's visit marked the first time the leaders of the KMT and CCP met since the Chinese Civil War. "As millions of Taiwanese and Chinese watched on television, Chinese President Hu Jintao shook hands with the opposition leader at a lavish

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<sup>133</sup> "Twelve Results Achieved In CPC and KMT Dialogue." *People's Daily*, Mar. 31, 2005.



state reception in Beijing. After Lien[Lian] returned to Taipei on May 3, Hu's government sweetened its PR offensive with more goodies, including a plan to ease restrictions on Chinese travel to Taiwan, lift tariffs on some Taiwanese agricultural imports -- and [offered to] send two giant pandas to the Taipei Zoo. To add even more surprise, Taiwanese President Chen, despite some of his supporters' fury at Lien's[Lian's] visit, inserted himself into the dialogue. Chen agreed to send a message to Chinese President Hu through another opposition leader, James Soong of the People First Party, who was scheduled to start a China trip on May 5"<sup>134</sup>Based on the timing of the invitation, China had two intentions when inviting the KMT leaders. The first one I have previously noted. China wanted to allay Taiwanese fears about the anti-secession law and demonstrate that it was sincere about promoting peace in the Taiwan Strait. The other objective was to help the KMT gain ground in Taiwan.

I believe that the law has helped in achieving both goals. Besides the period immediately following the passage of the law, the Taiwanese people have not taken major action in opposition to it. Furthermore, during local elections in December the KMT won a significant victory. The head of the KMT and possible presidential hopeful Ma Ying Jeou(currently mayor of Taipei) is very popular in Taiwan. Ma has recently expressed approval of the possibility of improving links with the Mainland. He believes opening up more links as well as resuming dialogue with the Mainland will help Taiwan gain initiative in cross-strait

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<sup>134</sup> [http://www.businessweek.com/magazine/content/05\\_20/b3933011.htm](http://www.businessweek.com/magazine/content/05_20/b3933011.htm)

relations. "Taiwan's national security must not depend solely on weapons but on working toward a cessation of cross-strait hostility through political, cultural and artistic means"<sup>135</sup> The local elections that took place could possibly bode poorly for the DPP in 2008. Because China has shown its willingness to hold negotiations with the KMT and not the DPP it is reasonable to predict that a KMT victory could bring the two sides closer. The growth of KMT power will help China achieve its goal of opening up more links such as tourism and investment across the strait. This situation is especially significant in light of the fact that the DPP has decided to take a tougher stance toward the Mainland. A tougher stance is likely to appeal to its traditional support base. In his New Years(2006) Day Speech, Chen Shuibian announced his intention to hold a constitutional referendum before his term expires in 2008. Although some members of the DPP have announced that Chen will stick to his previous commitment and stay away from the independence/unification issue by avoiding issues such as a possible name change, Beijing has typically been skeptical of his actions.

In February 2006, Chen made a decision that angered the leaders in Beijing as well as Washington. Chen decided to terminate Taiwan's National Unification Council.<sup>136</sup>The council, which had existed since 1990<sup>137</sup>, was virtually

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<sup>135</sup> Y.F. Low, "Taiwan Needs to Resume Talks With China to get Initiative: KMT" December 28<sup>th</sup> 2005 <http://taiwansecurity.org/CNA/2005/CNA-281205-1.htm>

<sup>136</sup> Joseph Khan and Keith Bradsher "Beijing upset over Chen's Step in Taiwan" from the *International Herald Tribune*, March 1, 2006.



inoperative during Chen's tenure. However, its very existence had symbolic meaning. The fact that Chen had decided to do away with the council was viewed by Beijing as a possible step toward independence. However, according to some analysts, Chen's move is a response to the defeat his party suffered in the December 2005 elections. With Chen's popularity ratings down, this move may help him rally his support base in the Pan-Green (泛綠) Camp.

The move to eliminate the National Unification Council is arguably a violation of the "five noes" promise made by Chen in his inaugural speech. According to a KMT spokesperson, "The 'five noes' policy is the most important foundation for maintaining the status quo...Terminating the national unification guidelines puts the other 'four noes' promises on the brink of collapse". Furthermore, the spokesperson mentioned that KMT chairman and Taipei Mayor Ma Ying Jeou intends to take steps to recall President Chen.<sup>137</sup> Ma believes that this step is damaging to the status quo, which he is in support of maintaining. In Ma's opinion, unification is the ultimate goal, however the present time is not the best time to pursue unification, therefore the status quo is optimal. Chen's decision also drew harsh remarks from the opposition PFP. Lu Hsueh-Chang, the head of the PFP legislative caucus said "Chen Shui-Bian has terminated the [council] and its guidelines, provoked an ethnic rift, hurt mutual trust between

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<sup>137</sup> "China Warns Taiwan of New Crisis" February 28<sup>th</sup>, 2006, from CNN.com <http://edition.cnn.com/2006/WORLD/asiapcf/02/27/china.taiwan.tension/>

<sup>138</sup> "KMT's Ma to Move to Recall President Chen" *China Post*, February 28<sup>th</sup>, 2006. <http://taiwansecurity.org/CP/2006/CP-280206.htm>

Taiwan and the US, and sabotaged Taiwan's international reputation. What he has done is actually an act of subversion". These comments were made in order to justify the PFP's intention to call for the impeachment of Chen.<sup>139</sup> Chen's actions have drawn the ire of the PRC as well.<sup>140</sup>

What effect Chen's actions here will have is not known yet. On one hand, it may harm his standing and strengthen the position of the KMT ahead of the 2008 election. On the other hand it could have the effect of rousing Chen's supporters and boosting his popularity. In my opinion, the anti-secession law along with the olive branch sent out to the KMT by the PRC has backed Chen into a corner. He cannot negotiate with China because that would require him to accept the one-China policy laid out in the Singapore agreement. The KMT currently holds a majority legislature, and with the unpopularity of Chen, the forces that have been involved in the talks with the Mainland would seem like they are in a better position than the forces seeking independence.

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<sup>139</sup> "Chen Faces Impeachment Bid Over Scrapping of Council" Thursday March 2, 2006 *South China Morning Post*.

<http://china.scmp.com/chimain/ZZZSH5UH8JE.html>

<sup>140</sup> From Xinhua news March 3, 2006. [http://news.xinhuanet.com/english/2006-03/03/content\\_4254966.htm](http://news.xinhuanet.com/english/2006-03/03/content_4254966.htm)



## Chapter Eight: Conclusion

In this thesis I have made the argument that the ASL was created with certain objectives in mind. These objectives were to warn Taiwan about the dangers of declaring independence while at the same time not causing popular anti-China sentiment, prove Hu Jintao had enough proper "Taiwan credentials" to be China's leader, to isolate Chen Shuibian, to deter Taiwan from declaring independence, and to set the tone for future cross-strait relations. I have also argued that the ASL cannot simply be looked at as a solitary gesture. It must be interpreted as one element of China's new cross-strait strategy.

According to Chen-Yuan Tung, during the cross-strait crises of 1995-1996 and 1999-2000 China had four objectives. The PRC wanted to express its disapproval of Taiwan's policies, coerce Taiwanese leaders into re-acceptance of the One-China policy, deter Taiwan from formally declaring independence, and to discourage the Taiwanese electorate from voting for pro-independence candidates. Taiwan has not formally declared independence (Since China is still trying to deter independence it is assumed that Taiwan's actions have not constituted what Beijing views as a formal declaration of independence), and Beijing's actions certainly were successful in displaying its disapproval of Taiwan's actions. However, Beijing's actions in the 1990s were unsuccessful in getting Taipei to re-adopt the One-China principle, and the Taiwanese electorate has since voted in a pro-independence Presidential candidate twice and has since

voted in Pan-Green majority legislatures. In order to accomplish its objectives, Beijing needed a new strategy. Since the ASL was immediately followed by an “olive branch” to the Taiwanese, the Chinese have decided that they could no longer sit by and allow the DPP to keep winning elections in Taiwan while they refuse to accept the “one China” principle. As the “one China” principle has not been accepted by the DPP, we can infer that the invitations to the Mainland are only really meant for the opposition Pan-Blue (泛藍) Camp.

In my literature review I discussed Stephane Dion’s theory about secession in democracies. I believe his theory can be properly applied to the current Beijing strategy. The ASL has shown that the risks associated with independence can be too high for the Taiwanese. Since most Taiwanese do not want independence at the cost of war, by making the cost of independence war, China can effectively remove the desire for independence. On the other hand, China continues to offer Taiwan incentives to accept the One-China Principle. Incentives have ranged from the recent offer of Pandas to Taiwan to possible agricultural benefits. Additionally the Mainland has brought up the possibility of allowing Chinese tourists to vacation in Taiwan. Some of these moves could benefit the Taiwanese economy. Basically, Beijing has shown that the cost of independence is high, and while their immediate goal is not necessarily unification, they are trying to boost the Taiwanese people’s confidence in accepting the One-China Principle.



I have shown that Chen Shuibian would have been the Condorcet loser in the 2000 Taiwanese election. Additionally in the 2004 Taiwanese election Chen won a very close race. Most analysts agree that under normal circumstances Chen would not have won the 2004 election. However, unknown assailants attempted to assassinate Chen and his running mate Vice-President Annette Lu just before the election. The assassination attempt gave him a necessary boost. Since Chen's administration is currently unpopular and his party has suffered in the most recent Taiwan elections and the KMT candidate Ma Ying-jeou is very popular it would seem that the KMT is in a strong position two years before the 2008 election. A KMT victory could very well signify a new era in cross-strait relations.

I believe that based on the continuing visits by KMT leaders to Mainland China, China's new strategy of dealing with Taiwan has already had a great impact on the course of events in the Taiwan Strait. Taiwan's economy has not been as strong this decade as it has been in previous decades. It has not enjoyed its former high rates of economic growth.<sup>141</sup> The fact that the economy has slowed down may make the prospect of improving business links with China more desirable to Taiwanese people. Since the Pan-Green Camp tends to discourage reliance on the Chinese market, their stance may not be in line with the best

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<sup>141</sup> From 1952-2001 Taiwan had an average economic growth rate of 8.13% <http://www.gio.gov.tw/info/taiwan-story/economy/edown/3-5.htm> During 2005-2006 the growth rate was estimated and predicted to be 3.7% and 4.1% respectively. <http://www.taipeitimes.com/News/biz/archives/2005/11/10/2003279604>

prospects for the Taiwanese economy. People who believe the economy is a major priority may end up supporting the KMT because the KMT would be more likely to make potentially lucrative deals with the Mainland.

From this information it can be concluded that despite warnings from China against the passage of the ASL, China has in fact accomplished its objectives and therefore the ASL could be considered a success. The ASL did not remove Chen's desire to alter Taiwan's constitution, but at the very least Beijing has taken action regarding Taiwan. Basically, China could not sit by while in its view Taiwan was moving closer to independence. China did manage to take action without hurting its interests in Taiwan. Since the position of the KMT is at one of its strongest points since it lost hold of the presidency, and the DPP is unpopular the ASL certainly cannot be viewed as having hurt China's interests.

I have also discussed the fact that the US reaction to the ASL was not harsh. During President Hu Jintao's visit to the United States in April 2005 the Taiwan issue was not a priority discussion for the US government. The concerns that have mainly drawn attention in the Sino-US relationship have been economically related, but have also been diplomacy and security related.

The main drawback for China in passing the ASL was likely that it gave the US the help it needed in convincing Europeans not to drop their arms embargo. Convincing the Europeans to repeal the arms embargo was one of China's political failures in 2005. Due to the fact that France and Germany



backed repealing the arms embargo, it is likely that the PRC could attempt to have it lifted again and meet with more success.

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